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LAW OF INNKEEPERS

AND THE  
LICENSING ACTS.

BY  
THOMAS W. HAYCRAFT, Esq., B.A. (Oxon.)

*Of the Inner-Temple, Barrister-at-Law.*

Author of "A Handy Book on the Bill of Sale Acts," and "The Powers,  
Duties, and Liabilities of Directors."

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# HANDY BOOK

ON THE

# LAW OF INNKEEPERS

AND THE

# LICENSING ACTS.

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# LAW OF INNKEEPERS.

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## CHAPTER I.

### INTRODUCTION.

This book has been written with the object of providing innkeepers with an easy manual of the law applicable to their special calling.

Most of the chapters are devoted to a treatment of such part of the licensing laws as is required to be known by those persons who keep inns and public-houses, that part which relates to the sale of intoxicating liquors for consumption off the premises, having been omitted as not of sufficient importance to the persons above mentioned. The rules concerned with the granting of new licences, renewals and transfers have been collected and arranged in one chapter in such a manner as to be intelligible to a non-legal reader.

The Statute Law has been somewhat rigorous in its treatment of such as retail intoxicating liquors, and it is very necessary that they should be made fully aware of the several dangers which lurk within the sections of Acts of Parliament. To that end the author respectfully directs attention to the chapter on Offences and Penalties, and the two chapters following, where will be found enumerated those penalties and other terrors which beset the path of a

licensed victualler. By a careful study of the law its terrors may be avoided.

The Common Law as amended by the Innkeepers' Acts has regarded the innkeeper as a public servant clothed with special rights and liabilities. The legal relationship between himself and his guest should be thoroughly understood by every person who keeps an inn, and this branch of the law will be found sufficiently explained in chapters VI. and VII. where reference is made to the most important legal decisions on the subject.

At the end of the book is a chapter on refreshment houses, and a few forms have been provided in the appendix.

## CHAPTER II.

## THE PREMISES.

*When a licence is required ; Annual value ; Structural requirements, etc. ; Restrictions on the use of inns, etc.*

## WHEN A LICENSE IS REQUIRED.

Every house where intoxicating liquors are sold to be drunk on the premises, requires both an excise and a justices' licence. (*See. p. 16*).

A temperance hotel which is not kept open after ten o'clock at night does not require any licence. If it is kept open after ten, an excise licence must be obtained. (24 & 25 *Vict.*, c. 91, s. 8. *See p. 102*).

## ANNUAL VALUE.

Premises licensed since the 10th August, 1872, for the sale of intoxicating liquors to be drunk on the premises must comply with the conditions laid down by section 45 of the Licensing Act, 1872, as follows :—

“ If situated within the City of London or  
 “ the liberties thereof, or any parish or place  
 “ subject to the jurisdiction of the Metro-  
 “ politan Board of Works, or within the four  
 “ mile radius from Charing Cross, or within  
 “ the limits of a town containing a population  
 “ of not less than 100,000 inhabitants, £50 per  
 “ annum ; or if the licence does not authorise  
 “ the sale of spirits, £30 per annum.

“ If situated elsewhere, and within the limits  
 “ of a town containing a population of not  
 “ less than 10,000 inhabitants, £30 per annum;  
 “ or if the licence do not authorise the sale of  
 “ spirits, £20 per annum.

“ If situated elsewhere, and not within any  
 “ such town as above mentioned, £15 per  
 “ annum; or if the licence do not authorise  
 “ the sale of spirits, £12 per annum.” (*Lic.  
 “ Act, 1872, s. 45).*

The jurisdiction of the Metropolitan Board of Works has now passed to the London County Council.

For premises licensed prior to the 10th August, 1872, a lower qualification will suffice.

Beerhouses licensed prior to the 10th August, 1872, under the Wine and Beerhouse Acts, 1869 and 1870, must be of the following annual value:—

If situated in London or Westminster, or in any city or town with over 10,000 inhabitants, £15 per annum.

If situated in any place with between 2,500 and 10,000 inhabitants, £11 per annum.

If situated in any other place, £8 per annum.  
 (*Lic. Acts, 1872, s. 46; 1840, s. 1).*

Refreshment houses with wine licences are governed by the Wine and Refreshment House Act, 1860, and must be of the following annual value:—

If situated in any city or town with over 11,000 inhabitants, £20.

If situated in any other place, £10. (23 *Vict.*, c. 27. s. 8).

*Mode of ascertaining Annual Value.*

This is to be found in section 47 of the Licensing Act, 1872. The justices may use their own means for ascertaining the annual value, and may employ a competent person for the purpose and charge applicants for licences with the cost of valuation. The principle on which the calculation is to be made is thus laid down:—

“The annual value of premises for the purposes of this Act shall be the annual rent which a tenant might be reasonably expected, taking one year with another, to pay for the same, if he undertook to pay all tenants rates and taxes, and tithe commutation rent charge (if any), and if the landlord undertook to bear the cost of the repairs and insurance and other expenses (if any), necessary to maintain the premises in a state to command the said rent, and if no licence were granted in respect thereof; but no land shall be included in such premises other than any pleasure ground, or flower or kitchen garden, yard, or curtilage usually held and occupied, and used by the persons residing in and frequenting the house.” (*Lic. Act, 1872, s. 47*).

## STRUCTURAL REQUIREMENTS.

The justices, in granting, renewing, or transferring licences, may be guided by the character of the building in question. Certain structural qualifications are necessary for premises not licensed before 10th August, 1872.

“The premises shall be in the opinion of the licensing authority, structurally adapted to the class of licence for which a certificate is sought.

Provided that no house, not licensed at the time of the passing of this Act, for the sale of any intoxicating liquor for consumption on the premises, shall be qualified to have a licence attached thereto authorising such sale, unless such house shall contain, exclusive of the rooms occupied by the inmates of such house, if the licence authorise the sale of spirits, two rooms, and if the licence do not authorise the sale of spirits, one room, for the accommodation of the public." (*Lic. Act, 1872, s. 45*).

#### *Internal Communications.*

"Every person who makes or uses, or allows to be made or used, any internal communication between any licensed premises and any unlicensed premises which are used for public entertainment or resort, or as a refreshment house, shall be liable to a penalty not exceeding £10 for every day during which such communication remains open. In addition to any penalty imposed by this section, any person convicted of an offence under this section shall, if he be the holder of a licence, forfeit such licence." (*Lic. Act, 1872, s. 9*).

#### SIGNBOARDS AND NOTICES.

A licensed innkeeper must keep painted or fixed up over the principal entrance door of his premises, and not more than three feet over the top of the door, his name in full followed by the word "licensed."

If the inn belongs to a company who have a licensed manager resident on the premises, the name of the licensed manager must also appear.

The words should be painted in Roman characters not less than one inch in height, and such conditions must be complied with as the licensing justices may prescribe. It must also be stated in respect of what liquors the licence has been granted and whether the sale of liquors "on" or "off" is authorised.

If these conditions are not complied with, or it is made to appear that the innkeeper is authorised to sell liquors not covered by his licence he will incur a penalty of £10 for the first, and £20 for every subsequent offence. (*Lic. Acts*, 1825, s. 25; 1872, s. 11; 1874, s. 28).

If the licensed person holds a six days licence or an early closing licence this must also be stated. (*Lic. Acts*, 1872, s. 49; 1874, s. 7).

If he holds an order of exemption this must also be stated. (*Lic. Act*, 1872, s. 26. See p. 14).

#### RESTRICTIONS ON THE USE OF INNS, ETC.

An innkeeper will incur a penalty if he allows his premises to be used as a brothel (*see p. 71*) or as a gaming house (*see p. 71*) or for the holding of election committees. (*See p. 77*). He may not harbour thieves, prostitutes, or constables. (*See pp. 69, 70*). Justices of the Peace may not hold their meetings in a licensed house (45 & 46 *Vict.*, c. 50, s. 160), nor may workmen's wages be paid in public-houses or beer-shops. (46 & 47 *Vict.*, c. 31, s. 3). The premises may not be used for any public entertainment or amusement, or for a public debate on any subject on Sunday. (*See p. 64*).

*(For offences relating to licensed premises see chap. VIII.)*

*(As to the hours of closing see next chapter).*



## CHAPTER III.

## HOURS OF CLOSING.

An inn may and indeed should be open at all hours for the reception of travellers who require to be lodged, and a licensed innkeeper may sell intoxicating liquors to guests lodging at his inn, or to *bonâ fide* travellers, at any time.

But the holder of a six days licence may sell intoxicating liquors on Sunday only to persons lodging at his inn, and may not sell to other travellers. (*Lic. Act*, 1874, s. 10).

As regards the sale of intoxicating liquors to persons not lodging at the inn, nor *bonâ fide* travellers calling for refreshment, the regulations are to be found in the Licensing Act of 1874, section 3, which is as follows :—

“ All premises in which intoxicating liquors are sold by retail shall be closed as follows (that is to say),

(1) If situate within the Metropolitan district—

(a) On Saturday night, from midnight until one o'clock in the afternoon on the following Sunday ; and

(b) On Sunday night from eleven o'clock until five o'clock on the following morning ; and

(c) On all other days from half-an-hour after midnight until five o'clock on the same morning ; and

(2) If situate beyond the Metropolitan District and in the Metropolitan Police District, or in a town or populous place as defined by this Act.

(a) On Saturday night from eleven o'clock until half-an-hour after noon on the following Sunday; and

(b) On Sunday night from ten o'clock until six o'clock on the following morning; and

(c) On the nights of all other days from eleven o'clock until six o'clock on the following morning; and

(3) If situated elsewhere than in the Metropolitan District, or the Metropolitan Police District, or such town or populous place as aforesaid :—

(a) On Saturday night from ten o'clock until half-an-hour after noon on the following Sunday; and

(b) On Sunday night from ten o'clock until six o'clock on the following morning; and

(c) On the nights of all other days from ten o'clock until six o'clock on the following morning.

Such premises wherever situate shall, save as hereinafter mentioned, be closed on Sunday afternoon from three or half-past two, according as the hour of opening shall be one o'clock in the afternoon, or half-an-hour after noon until six o'clock.

Such premises wherever situate, shall be closed on Christmas Day and Good Friday, and on the days preceding Christmas Day and Good Friday respectively, as if Christmas Day or Good Friday

were respectively Sunday, and the preceding days were respectively Saturday, but this provision shall not alter the hours during which such premises shall be closed on Sunday when Christmas Day immediately precedes or succeeds Sunday." (*Lic. Act*, 1874, s. 3).

It is the duty of the magistrates in special meetings to determine the boundaries of towns and populous places, for the purpose of closing regulations in the county, and information as to any particular locality can be obtained from the clerk to the licensing justices. (*Lic. Act*, 1874, s. 32).

As to whether a house is within the Metropolitan Police District, information can be obtained from the nearest police station.

If the justices think fit, they may make an order directing the hours of closing on Sunday, Good Friday and Christmas Day, in a place outside the Metropolitan Police District, to be the same as if the place in question were within the district.

(*As to occasional licences extending the time for closing on certain occasions see pages 14 & 32*).

#### PENALTIES.

An innkeeper or any licensed person selling intoxicating liquors at a time when his licence does not allow him to do so, that is, at any time when the law requires him to close his house, except for the refreshment of *bonâ fide* travellers or persons lodging in his house, will be liable to a penalty not exceeding £10 for the first or £20 for any subsequent offence. (*Lic. Act*, 1874 ss. 9, 10). This does not make him liable for supplying liquor

to his friends without charge at any hour. (*Id.* s. 30).

A licence holder who is charged with selling intoxicating liquors after closing time will not be convicted if it appears that he truly believed at the time of the sale that the purchaser was a *bonâ fide* traveller. (*Id.* s. 10).

Any person found on licensed premises after closing time will, unless it can be proved that he was an inmate, servant, or lodger, or a *bonâ fide* traveller, or a person not there for the purpose of purchasing liquor, be liable to a penalty not exceeding 40 shillings. Any constable finding such person on the premises may demand his name and address, and if he refuses to give his name or address, or gives a false name or address, he may be fined a sum not exceeding £5. Any person who buys, or obtains, or attempts to buy or obtain intoxicating liquor after closing time by falsely representing himself to be a lodger or *bonâ fide* traveller, may be fined a sum not exceeding £5. (*Lic. Act*, 1872, s. 25).

#### WHO IS A BONA FIDE TRAVELLER.

An Irish judge once defined a *bonâ fide* traveller as “a man with a *bonâ fide* thirst.” That definition, however, cannot be relied on in practice.

The burden of proving that a purchaser of intoxicating liquors after closing time was a *bonâ fide* traveller is on the innkeeper. The Act of 1874, gives one rule for determining who are not *bonâ fide* travellers, as follows:—

“A person—shall not be deemed to be a *bonâ*

*fide* traveller unless the place where he lodged during the preceding night is at least three miles distant from the place where he demands to be supplied with liquor, such distance to be calculated by the nearest public thoroughfare. (*Lic. Act*, 1874, s. 10).

The Act does not say that **every person** who has travelled three miles from home is a *bonâ fide* traveller. If he has walked three miles to an inn merely for the purpose of getting drink after closing time, that will not constitute him a proper person to be served with liquor. (*Taylor v. Humphries*, 34 *L.J.*, *M.C.* 1 (1864).)

#### EXEMPTIONS.

If it appears to the Local Authority desirable to extend the time during which licensed premises may be kept open in order to accommodate a considerable number of persons attending a public market, or following any lawful trade or calling in the neighbourhood, and to whom such extension of time would be a benefit, such Local Authority may make an order exempting a licence holder from the ordinary closing regulations on such days and during such hours as may seem fit, but on no account may a licensed house be kept open between one and two o'clock in the morning.. The persons who are empowered to grant such exemptions and who are above described as "the Local Authority" are the following :—

- (1) In the Metropolitan Police District, the Commissioner of Police for the Metropolis, subject to the approbation of one of Her Majesty's Secretaries of State.

- (2) In the City of London and the liberties thereof, so far as they are not included in the Metropolitan Police District, the Commissioner of the City Police, subject to the approbation of the Lord Mayor.
- (3) In any other place, two Justices of the Peace in Petty Sessions. (*Lic. Acts*, 1872, s. 26; 1874, s. 5).

An innkeeper who has obtained an exemption order must fix or paint up a notice stating the days and hours to which the exemption extends in such a manner as the Local Authority may require, in a conspicuous place outside the premises, and keep it up so long as the exemption order continues in force under a penalty of £5. (*Id*).

Any person who puts up such notice without having an exemption order is liable to a penalty of £10. (*Id*).

#### OCCASIONAL LICENCES.

If the Local Authority (*see above*) thinks fit it may grant an occasional licence enabling an innkeeper to keep his premises open for the sale of intoxicating liquors beyond the ordinary closing time on a special occasion. (*Lic. Act*, 1872, s. 29; *Lic. Act*, 1874, s. 5. *See p.* 32).

#### JUSTICES MAY CLOSE LICENSED PREMISES IN CASE OF RIOT.

Any two justices having jurisdiction in a place where any riot or tumult happens, or is expected to happen, may order all licensed persons in the district to close their premises for a stated time, and if

necessary may compel them to do so by force. Any person disobeying the order may be fined £50. (*Lic. Act*, 1872, s. 23).

#### BILLIARDS.

An innkeeper who has a billiard table on his premises may not allow persons to play on it at any time when his premises should be closed for the sale of intoxicating liquors, nor at any time on Sunday, Christmas Day, or Good Friday, or any day appointed to be kept as a public fast or thanksgiving (8 & 9 *Vict.*, c. 109, s. 13). This rule applies even in the case of lodgers in the house, although they may be supplied with liquor during the times above mentioned. (*Ovenden v. Raymond*, 34, *L.T.*, 698; 40, *J.P.*, 727 (1876).)

(*As to closing regulations for refreshment houses see p. 103*).



## CHAPTER IV.

## JUSTICES' LICENCES.

*Licensing sessions; New licences; Renewals; Transfers; Removals; Occasional licences.*

Before an innkeeper can take out any excise licence to sell intoxicating liquors to be drunk on the premises he must first obtain a justices' licence.

One justices' licence will entitle the holder to take out as many excise licences as are specified upon it. (*For excise licences, see p. 34*).

A licence enabling the holder to take out any of the licences that a publican may hold is called an alehouse licence. A beerhouse licence enables the holder to take out an excise licence to sell beer or cider, on or off. A cider and perry licence enables the holder to take out an excise licence to sell those liquors on or off.

If the holder of a beerhouse licence wishes to take out an excise licence for wine and spirits he must apply for an alehouse licence. If he wishes to take out an excise licence for wine only in addition to his beerhouse licence, he must apply for a refreshment-house wine licence.

Penalties and disqualifications attach to the sale of intoxicating liquors without a licence. (*See pp. 61-63*).



## LICENSING SESSIONS.

Sessions of the justices are held annually for the granting of licences, and are known as the General Annual Licensing Meetings. In the counties of Middlesex and Surrey they are held within the first ten days of March, and in every other county on some day between the 20th day of August and the 14th day of September inclusive. (*Lic. Act, 1828, s. 1*).

The annual meeting may be adjourned from day to day until the business is completed, but the first adjournment will not be held before the sixth day after the annual meeting, and no adjourned meeting may be held after the month of March, in Middlesex and Surrey, or after September in any other county. (*Lic. Act, 1828, s. 3*).

At the annual meetings Special Sessions for granting transfers are fixed, not more than eight, nor less than four being held in each year. (*Lic. Act, 1828, s. 4*).

## NEW LICENCES.

A new licence is a licence granted in respect of premises, for which a similar licence has not been previously granted or is not in force.

A beerhouse licence will not be granted to any but the real resident holder and occupier of the premises for which the licence is required (*3 & 4 Vict., c. 61, s. 1*).

No person acting as an officer executing legal process of any Court of Justice, and no person who has been convicted of felony, or of selling spirits without a licence, or who is otherwise disqualified,

may hold a licence. (*Lic. Acts*, 1828, s. 16; 1870 s. 14; 1872, s. 44).

*Notice Must be Given.*

Any person intending to apply for a new licence must give notice of his intention at least three weeks before the time when the sessions are held at which he proposes to apply. The notice must be in writing, and must contain the name and address of the applicant, a description of the licence or licences for which he intends to apply, the situation of the house for which the licence is required, and the date of the annual meeting or adjournment at which the application is to be made. A copy must be served on one of the overseers of the parish, township or place where the premises are situated, and on the superintendent of police of the district. The notices may be sent by post. If the premises have not previously been licensed for the sale of beer, cider, or wine, by retail, a notice must also be fixed at least four weeks before the application is to be made, both on the door of the premises to be licensed, and also on the door of the parish church or district chapel, if there is one, and, if not, on some conspicuous place in the parish or place between 10 a.m. and 5 p.m., on two consecutive Sundays. (*Lic. Acts*, 1869, s. 7; 1870, s. 4; 1872, ss. 40, 70).

The notice must also be advertised in a local newspaper circulating in the district where the premises are situated, not more than four or less than two weeks before the proposed application to the justices. The justices have power to fix a day or

days when such advertisement is to appear, and the magistrates' clerk will inform persons applying what day or days have been fixed. (*Lic. Act*, 1872, s. 40).

If the applicant is unable to attend the annual meeting or any adjournment through sickness, or infirmity, or any other reasonable cause, he may appoint some one to make the application for him. The justices will hear the application on being satisfied that the person appearing has authority to make the application, and may examine him on oath as to the cause preventing the real applicant from attending personally. (*Lic. Act*, 1828, s. 12).

The justices will hear evidence for and against the application, and have an absolute discretion as to granting the licence, no appeal lying from their refusal to grant a new licence. (*Lic. Acts*, 1872, s. 75 ; 1874, s. 27).

The justices are not bound to state their grounds for refusing a licence, but they must hear every application on its merits, and if they refuse to do so, a mandamus will be granted by the High Court to compel them to hear the application.

The licence will remain in force for one year from the 5th day of April, in Middlesex and Surrey, or from the 10th day of October, in any other county. (*Lic. Act*, 1828, s. 13).

If premises already licensed have been enlarged, it is not generally necessary to apply for a new licence in respect of them, but a renewal will be sufficient. If, however, the justices are of opinion that the addition is such as not to be reasonably

covered by the old licence they may refuse to renew, and the premises may not then be used for the sale of intoxicating liquors until a new licence has been obtained.

If a licence holder desires to take out an additional excise licence he must obtain a new justices' licence. (*Lic. Acts*, 1828, s. 17 ; 1869, s. 4).

#### *Confirmation of New Licences.*

A new licence requires to be confirmed by the County Licensing Committee, or in large boroughs by the whole bench of justices, or in boroughs with less than ten justices by a committee called the Joint Committee. (*Lic. Acts*, 1872, ss. 37, 38 ; 1874, s. 21).

The justices have an absolute discretion as to granting confirmation of a new licence.

Information as to the time when a confirmation is to be applied for can be obtained from the clerk to the justices.

Only persons who have appeared before the General Annual Licensing Meeting to oppose a new licence will be heard in opposition to its confirmation. (*Lic. Act*, 1872, s. 43).

#### *Provisional Licences.*

A provisional licence may be granted for premises not yet built, the same formalities being observed as in ordinary applications for new licences. Plans of the proposed premises must be submitted to the justices. When the premises have been completed the grant must be made final by a declaration of the justices at General or Special Sessions on such terms as to notice as the justices may require.



application may be made even by a new tenant who has not obtained a transfer. (*Reg. v. Liverpool, J.J. See page 28*).

If the premises have been enlarged since the last General Annual Licensing Meeting a renewal will be sufficient, unless the justices are of opinion that the enlargement practically constitutes them new premises, in which case a new licence must be obtained and a renewal will not be granted.

No notice need be given of an application for a renewal, and unless required to do so for some reason personal to himself, the applicant need not attend in person. (*Lic. Acts, 1872, s. 42; 1874, s. 26*).

Any person desiring to oppose the renewal of a licence must serve a notice of his intention to oppose on the holder of the licence, stating in general terms the grounds of opposition. Such notice must be served not less than seven days before the General Annual Licensing Meeting. (*Id.*).

If no notice has been given but an objection to the renewal is raised at the hearing, the justices may postpone the granting of the renewal to a future day, and require the attendance of the holder on that day, when the objection will be heard. (*Lic. Act, 1872, s. 42*).

In such a case the objection must be stated in open court, and notice, stating the grounds of objection, must be served on the licence-holder. (*R. v. Merthyr Tydvil; 14 Q.B.D. 584; 59 L.J. M.C. 78; 49 J.P., 213 (1885).*)

No objection will be heard except on oath or affirmation. (*Lic. Act, 1872, s. 42*).



Except in the case of an old beer-house licence, as mentioned below, the justices have the same discretion in the granting of a renewal as of a new licence. This question has been fully discussed and decided in the case of *Sharpe v. Wakefield*. (22 *Q.B.D.* 239 ; 58 *L.J. M.C.* 57 ; 60 *L.T.* 130 ; 53 *J.P.*, 20 (1889).)

The justices may not refuse to renew on merely arbitrary grounds, such as an objection to public-houses generally, nor may they refuse to hear the evidence before deciding, but, provided they base their decision on the circumstances of the particular case, their decision is unfettered. They are not therefore confined in the exercise of their judgment to questions touching the fitness of the applicant, but may consider the requirements of the neighbourhood or the remoteness of the house from police supervision, or any other matter affecting the desirability of granting or refusing the renewal in question.

But when a house has been licensed continuously since 1st May, 1869, for the sale of beer, cider, and wine to be drunk on the premises, a renewal may only be refused on the following grounds:

- “(1) That the applicant has failed to produce  
“satisfactory evidence of good character :
- “(2) That the house or shop in respect of which  
“a licence is sought, or any adjacent house  
“or shop owned or occupied by the person  
“applying for a renewal is of a disorderly  
“character, or frequented by thieves, prosti-  
“tutes, or persons of bad character :

“(3) That the applicant having previously held  
“ a licence for the sale of wine, spirits, beer,  
“ or cider, the same has been forfeited for his  
“ misconduct, or that he has through mis-  
“ conduct been at any time previously ad-  
“ judged disqualified from receiving any such  
“ licence, or from selling any of the said  
“ articles :

“(4) That the applicant or the house in respect  
“ of which he applies, is not duly qualified  
“ as by law is required.”

Where a renewal is refused on the ground that the house in respect of which the application is made is not duly qualified, the justices must specify in writing to the applicant the grounds of their decision. (*Lic. Act*, 1869, s.s. 8, 19).

The renewal may be made by endorsement on the licence or by the issue of a copy of the old licence, but if a copy is issued there will be endorsed upon it all convictions made within the previous five years which are endorsed on the old licence. (*Lic. Act*, 1872, s. 48).

An applicant for a renewal may apply to have a condition inserted in his licence requiring him to keep the premises, in respect of which the licence is granted, closed during the whole of Sunday, and the justices will insert the condition required. (*Lic. Act*, 1872, s. 49).

But an innkeeper who has had his seven days' licence changed to a six days' licence cannot have it changed back into a seven days' licence on renewal, but must apply for a new licence.

Similarly an application may be made to have



an ordinary licence changed into an early closing licence, by the insertion of a condition requiring the premises to be closed an hour earlier than the usual closing hours. (*Lic. Act, 1874, s. 7*).

An appeal lies to Quarter Sessions against a refusal of the justices to renew. (*Lic. Act, 1828, s. 27*). Notice must be given to the justices, where a refusal to renew is appealed from, within five days of the refusal, and within the same five days the appellant must enter into his recognisances with two sureties to appear on the trial of the appeal, and pay costs if such are awarded. The appeal will be tried as a re-hearing and the evidence will be given over again. If the appellant wins, his licence will be renewed by the justices at Quarter Sessions, and he will have the satisfaction of paying his own costs. If he loses he will have to pay the costs of the other side as well, and these may be levied by execution, or by forfeiting the recognisances. (*Lic. Act, 1828, s. 27*). (*See p. 92*).

#### *Fees for Renewal.*

The fees payable on the renewal of an ale-house licence, that is a licence to sell beer, cider, wine, and spirits are the same as for a new licence. (*See p. 21*). (*Lic Act, 1828, s. 15*). Those payable on renewal of a licence to sell beer, cider, and wine only, are as follows :

	s.	d.
To the justices' clerk for the licence ...	4	0
"                    "                    " registration	1	0
To the constable for serving notices ...	1	0
	<hr/>	
Total.....	6	0

## TRANSFERS.

At the General Annual Licensing Meeting in each year, the justices appoint not less than four or more than eight Special Transfer Sessions for the ensuing year.

Every applicant for a transfer must serve notice of his intention to apply, fourteen clear days before the date fixed for the Special Transfer Sessions at which his application is to be made, on one of the overseers of the parish, township, or place where the licensed premises are, and on the superintendent of police of the district. (*Lic. Act, 1872, s. 40*).

The notice which may be served by a registered letter through the post, must be signed by the applicant or his authorised agent, and must contain the name and address of the person to whom the licence is proposed to be transferred, and his trade or calling during the last six months before the date of the notice. (*Lic. Act, 1872, s. 40*).

If the applicant fails to obtain a transfer he may apply again at next Special Sessions, proposing a new transferee, provided his own licence still continues in force.

The justices have the same discretion in granting or refusing transfers as in the case of new licences, except where the premises have been continuously licensed since 1st May, 1869, when they may only refuse a transfer on one of the four grounds mentioned on page 23 in respect of renewals. (*Lic. Act, 1869, ss. 8, 19; Simmonds v. Blackheath J.J. 17 Q.B.D. 765; 55 L.J., M.C. 166; 50 J.P. 742 (1886).*)

The 14th section of the Act of 1828 (9 *Geo. IV.*,

c. 61) makes special provision for transfers in the following cases, where ;—

- (1) A person duly licensed dies before the expiration of his licence, or,
- (2) Becomes incapable from sickness or other infirmity of keeping an inn, or,
- (3) Becomes bankrupt, or goes into voluntary liquidation, or,
- (4) The licensed person or his executors, administrators, or assigns give up possession of the licensed house, or,
- (5) The late occupier has wilfully neglected to apply for a renewal.

In such cases the justices at Special Sessions may grant a transfer to the persons following :—

- (1) The heirs, executors, administrators, or assigns of the person dying ; or,
- (2) The purchaser of the interest of the person being incapable of keeping the inn ; or,
- (3) The trustee of the bankrupt or person in voluntary liquidation ; or,
- (4) The new tenant or occupier of the house that has become unoccupied, or the person to whom the late occupier's heirs, executors, administrators, or assigns have by sale or otherwise *bonâ fide* conveyed or made over his or their interest in the occupation and keeping of the house ; or,
- (5) The new tenant of the house of which the late occupier has wilfully neglected to apply for a renewal.

Notice must be given as in the case of other transfers, and the licence transferred only remains

in force till the 5th of April or 10th of October next. (*Lic. Act*, 1828, s. 14).

The justices will not grant a transfer to the same new tenant more than once. (*Reg. v. Powell L.R.* 1891, 1 *Q.B.* 718 (1891).) In that case J. gave up possession of premises on September 2nd, without having applied for a renewal. R. entered on the same day, and applied on September 22nd at the adjourned meeting for a new licence, which was refused, but on the same day at Special Sessions a transfer was granted under section 14. That transferred licence expired in the ordinary course on October 10th. On January 3rd, he applied for a further transfer to carry him over to the next general meeting. This the justices refused to grant on the ground that he was no longer a new tenant, and their decision was upheld on appeal. Had he postponed his first application under section 14 till after October 10th, he would have been all right.

Successive new tenants may apply, and a transfer may be granted even after the licence has expired. *Reg. v. Liverpool J.J.*, 11 *Q.B.D.* 638; 52 *L.J.*, *M.C.* 114; 49 *L.T.* 244 (1883).) In that case B., a new tenant, entered in June, 1881, applied for a transfer at Special Sessions and was refused. She left shortly after the General Annual Meeting not having sold any intoxicating liquors, and having neglected to apply for a renewal. The licence expired October 10th. D. then entered and applied for a transfer under section 14 at Special Sessions in January, 1882. This was refused by the justices, but it was held on appeal that B. might have applied for a renewal although she had obtained

no transfer, and having neglected to do so, D., a new tenant, might apply for a transfer although the original licence had expired.

When it is desired to obtain a temporary transfer so as to enable a new tenant to keep the premises open for the sale of intoxicating liquors until next Special Transfer Sessions, an application may be made to the justices in Petty Sessions for leave to continue the licence until a proper transfer can be obtained in the ordinary way. When the licensed house is within the district of a Metropolitan Police Court, except in the borough of Southwark, the application must be made to the police magistrate. (*Lic. Act*, 1842, s. 1).

If the applicant cannot produce the original licence because it has been lost or mislaid, or wilfully withheld by the last holder without any legal right, a copy certified by the clerk to the justices will be received and the transfer will be endorsed upon it, for which a fee of two shillings and sixpence must be paid. (*Lic. Acts*, 1842, ss. 2, 3; 1872, s. 41; 1884, s. 1).

When a licence holder has died or become bankrupt before the expiration of his licence, the heirs, executors, representatives, or assigns in the first case, or the trustee in the second case, may carry on the business without obtaining a temporary transfer until next Special Transfer Sessions, or if such Special Sessions are held within fourteen days of the death or bankruptcy of the licence holder, then the persons above mentioned may carry on the business till the next sessions following. (*Lic. Act*, 1872, s. 3). This section only applies to

cases of death or bankruptcy and not to the other cases mentioned in the 14th section of the *Act*, 1828. (*See p. 27*).

When a licence holder has become temporarily disqualified or has had his licence forfeited for any of the following offences:—

- (1) Making an internal communication between his licensed premises and any unlicensed premises ;
- (2) Forging a licence under the Wine and Beer-house Acts, 1869 and 1870 ;
- (3) Selling spirits without a licence ;
- (4) Any felony ;

the owner of the premises may apply to the justices at Petty Sessions for authority to carry on the same business until next Transfer Sessions. At the Special Transfer Sessions an application must be made as under, the 14th section of the *Act* of 1828. (*Lic. Act*, 1874, s. 15).

**The fees** for transfers are the same as for new licences. (*See p. 21*).

#### REMOVALS.

A person desiring to remove his licence from one place to another in the same county may apply to the General Annual Licensing Meeting or an adjournment. The person to apply is the person who desires to hold the licence when removed.

Notice must be served on the same persons as when a new licence is applied for, and also on the owner of the premises already licensed and from which the licence is proposed to be removed, and



on the person already licensed in respect of such premises, unless he is the applicant in the case.

The justices will not make an order of removal unless satisfied that no objection is made by the owner of the premises already licensed, or the person holding the licence, or any other person having a right to object to the removal.

An order of removal requires confirmation like a new licence, and the justices have the same discretion as to granting and confirming it as in the case of a new licence. (*Lic. Act, 1872, s. 50*).

In certain cases of emergency a removal order may be made at a Special Transfer Sessions. Such cases are the following: "If any house, being kept as an inn, duly licensed, . . . shall be or be about to be pulled down or occupied under the provisions of any Act for the improvement of the highways, or for any other public purpose, or shall be, by fire, tempest, or other unforeseen and unavoidable calamity, rendered unfit for the reception of travellers, and for the other legal purposes of an inn." (*Lic. Act, 1828, s. 14*).

A removed licence will only remain in force till the 5th day of April or the 10th day of October following.

When the premises to which it is desired to remove the licence have not yet been built or completed, a provisional removal may be applied for, plans of the new premises being laid before the magistrates. If granted, the order must be confirmed, and must be made final when the premises are completed, as in the case of a pro-

visional grant of a new licence mentioned on page 20. (*Lic Act*, 1874, s. 22).

**The fees** for removals are the same as for new licences. (*See page 21*).

#### OCCASIONAL LICENCES.

##### *For Keeping the Premises Open after the Ordinary Closing Time on a Special Occasion.*

An innkeeper desiring to keep his inn open on a special occasion, after the ordinary closing hour, must apply to the Local Authority of the licensing district for an occasional licence. Such licence will specify the hour up to which the premises may be kept open. (*See p. 14*). (*Lic. Acts*, 1872, s. 29 ; 1874, s. 5).

For an occasional licence of this kind no excise licence is necessary. The Local Authority to whom application is to be made is the same as in the case of an exemption under section 26 of the Licensing Act, 1872, for which *see page 13*.

##### *For Selling Intoxicating Liquors at Unlicensed Places on Special Occasions.*

Such licences are granted to enable licence-holders to sell at fairs or races, or at balls or public dinners. The consent of one justice is sufficient, but an excise licence must also be obtained. (*See p. 38*).

The licence will specify the hours during which liquors may be sold, and will not, except on the occasion of balls or public dinners, allow such sale to be carried on earlier than sunrise or later than ten o'clock at night.



On the occasion of a public dinner or ball the licence may permit intoxicating liquors to be sold at any time during the hours specified in the licence. (25 & 26, *Vict.*, c. 22, s. 13; 26 & 27, *Vict.*, c. 33, s. 20; 27 & 28 *Vict.* c. 18, s. 5; *Lic. Act*, 1874, s. 19).

## CHAPTER V.

## EXCISE LICENCES.

An excise licence to sell any intoxicating liquors to be drunk on the premises will only be granted to the holder of a justice's licence. (*See p. 16*).

## LICENCE TO SELL BEER, WINE AND SPIRITS.

The following is the scale of duties for fully licensed persons who have taken out alehouse licences.

Although called a spirit licence, it covers also beer, cider, and wine. (*See below*).

“(1) If the annual value of the dwelling house in which the retailer shall reside or retail spirits, together with the offices, courts, yards, and gardens therewith occupied,

						£	s.	d.
Is under £10 ... ..						4	10	0
Is £10	and under £15	...	...	...	...	6	0	0
„ £15	„ „ £20	...	...	...	...	8	0	0
„ £20	„ „ £25	...	...	...	...	11	0	0
„ £25	„ „ £30	...	...	...	...	14	0	0
„ £30	„ „ £40	...	...	...	...	17	0	0
„ £40	„ „ £50	...	...	...	...	20	0	0
„ £50	„ „ £100	...	...	...	...	25	0	0
„ £100	„ „ £200	...	...	...	...	30	0	0
„ £200	„ „ £300	...	...	...	...	35	0	0
„ £300	„ „ £400	...	...	...	...	40	0	0
„ £400	„ „ £500	...	...	...	...	45	0	0
„ £500	„ „ £600	...	...	...	...	50	0	0
„ £600	„ „ £700	...	...	...	...	55	0	0
„ £700	or above	...	...	...	...	60	0	0

- (2) The holder of a license to retail spirits chargeable with duty under this Act, shall not be required to take out any further or other excise licence to enable him to sell beer or wine by retail. The holder of such licence shall not be liable for any percentage, discount, or other charge more than the amount stated in the Act.
- (3) Any person applying for a six days and early closing licence for the sale of spirits as an auxiliary only to his business as a restaurateur or eating-house keeper, and not keeping an open drinking bar, shall be entitled to his licence at a sum not exceeding £30, no such reduction to be made unless the licensing justices shall have certified by endorsement on their certificate that the nature of the business carried on by the applicant justifies the reduced scale of charge.
- (4) When in the case of premises of the value of £50 or upwards, it shall be proved to the satisfaction of the Commissioners that the premises are structurally adapted for use as an inn or hotel for the reception of guests and travellers desirous of dwelling therein, and are mainly so used ; the amount of duty to be paid on a licence to retail spirits shall not exceed £20. Provided that the relief under this sub-section shall not be given in case any portion of the premises is set apart, and used as an ordinary public-house for the sale and consumption therein of liquors and the annual value of such portion, in the opinion of the Commissioners, exceeds £25.”
- (43 & 44 *Vict.*, c. 20, s. 43).

## LICENCE TO SELL BEER AND WINE.

On a licence for the sale of beer and wine to be consumed on the premises ... £4 0 0  
*(This includes sweets, cider and perry) (id., s. 42.)*

## LICENCE TO SELL WINE ONLY.

On a licence to sell wine by retail to be consumed on the premises ... £3 10 0  
*(This licence includes sweets) (id., s. 41).*  
*(As to abatement on certain wine licences, see below).*

## LICENCES TO SELL BEER, CIDER, PERRY, AND SWEETS.

On a licence for the sale of beer by retail to be consumed on the premises  
 (this includes cider and perry) ... £3 10 0  
 On a licence to retail sweets ... £1 5 0  
 On a licence to retail cider (including perry) ... £1 5 0  
*(id., s. 41)*

## REFRESHMENT HOUSE LICENCE.

If the house and premises in respect of which such licence shall be granted, shall in England be under the rent and value; or in Ireland be under the value of £30 a year, the duty of ... £0 10 6

If the same shall be of the rent or value of £30 or upwards, the duty of ... £1 1 0

A refreshment house not kept open after 10 p.m., requires no licence. (24 & 25 Vict., c. 91, ss. 8, 9).

*Abatement of duty on wine licences for certain licensed refreshment houses.*

Refreshment house keepers who have taken out

refreshment house licences may, on condition of their closing their premises after ten o'clock at night, obtain an abatement of duty on taking out wine licences at the rate per annum hereinafter mentioned :—

When the house and premises in respect of which such licence shall be granted, shall in England be under the rent and value, or in Ireland under the value of £30 a year, an abatement of ... .. £0 7 4

And when the same shall be of the rent or value of £30 or upwards, an abatement of " ... .. £0 17 10

(24 & 25 Vict., c. 91, s. 9 ; 39 & 40 Vict., c. 16, s. 4).

(As to the mode of calculating annual value, see p. 5).

(As to penalty for keeping such houses open after ten o'clock at night, see p. 106).

#### EARLY CLOSING LICENCES.

"The holder of an early closing licence may obtain from the Commissioners of Inland Revenue any licence which he is entitled to obtain in pursuance of such early closing licence, upon payment of a sum representing six-sevenths of the duty which would otherwise be payable by him for a similar licence not limited to such early closing as aforesaid. In calculating the six-sevenths, fractions of a penny shall be disregarded." (*Lic. Act*, 1874, s. 7).

"A person who takes out a licence containing conditions rendering such licence a six-day licence, as well as an early closing licence, shall be entitled to a remission of two-sevenths of the duty." (*Id.* s. 8).

## OCCASIONAL LICENCES.

An occasional licence enabling the holder to sell on unlicenced premises for not more than six successive days ... 2s. 6d. per day.

“ Provided always that when any person shall have taken out an occasional licence for six successive days, and shall desire to take out another occasional licence for a time in immediate succession, or only separated by the intervention of Sundays and holidays, then the duty chargeable for every licence after the first, and for any number of days not exceeding six, shall not exceed ten shillings.”  
(26 & 27 *Vict.*, c. 33, s. 19).

## CHAPTER VI.

## THE DUTY OF AN INNKEEPER TOWARDS HIS GUESTS.

*As to receiving travellers ; Responsibility for the safety of the goods of a guest ; Responsibility for the safety of the person if a guest.*

## AS TO RECEIVING TRAVELLERS.

It is the duty of an innkeeper to receive into his inn every traveller for whom he has accommodation, and who is able to pay a reasonable sum for his lodging. He is not bound to give the guest any room such guest may take a fancy to, but must furnish him with reasonable accommodation if able to do so. (*Fell v. Knight*, 8 M. & W. 269, 276 ; 5 Jur. 554 (1841).)

He may not pick and choose his guests, but he may refuse to entertain a traveller who is drunk or immoderately abusive, or one whose presence is a nuisance to the other guests, as a man suffering from an infectious disease, or who insists on entering accompanied by an objectionable dog.

*The Case of the Attorney's Clerk.*

On a Sunday in April in the reign of William IV., Mr. Williams, an attorney's clerk, arrived at the "Bell Inn" in Chepstow, a few minutes before midnight. He had travelled on horseback from



Newport with two writs in his pocket which were to be executed in Chepstow on Monday morning. When he knocked at the inn door, Mrs. Ivens, the innkeeper's wife, got out of bed, put her head out of window and told him the inn was full and he must go elsewhere. It was not true that the inn was full, but neither Mrs. Ivens nor her husband wished to be disturbed at that late hour. The attorney's clerk sought lodging elsewhere in the town, but, finding the other inns full, returned to the "Bell," and again demanded admittance. Mrs. Ivens appeared a second time at the window, and she and Mr. Williams argued the question with some warmth and considerable detail. She asked him who he was and whence he came. After some demur he told her his name was Williams, and he came from Newport. The good lady was not satisfied, she said she did not know him and returned resolutely to bed. Mr. Williams then knocked at the shutters with his riding whip until the night-cap of the indignant innkeeper himself emerged. Mr. Ivens having warmly endorsed the decision of his wife, closed the casement with a bang, and the discomfited attorney's clerk rode supperless away.

This, however, was not the last of the affair, for the legal gentleman indicted the innkeeper, and the case was tried at the Monmouth Assizes before Mr. Justice Coleridge. In directing the jury his lordship made the following remarks which fully express the law upon the subject. "The law applicable to this case is this:—that an indictment lies against an innkeeper, who refuses to receive a guest, he having at the time room in his house; and either

the price of the guest's entertainment being tendered to him, or such circumstances occurring as will dispense with that tender. This law is founded in good sense. The innkeeper is not to select his guests. He has no right to say to one, you shall come into my inn, and to another, you shall not, as everyone coming and conducting himself in a proper manner has a right to be received; and for this purpose innkeepers are a kind of public servants, they having in return a kind of privilege of entertaining travellers, and supplying them with what they want. It is said in the present case that Mr. Williams, the prosecutor, conducted himself improperly, and therefore ought not to have been admitted into the house of the defendant. If a person came to an inn drunk, or behaved in an indecent or improper manner, I am of opinion that the innkeeper is not bound to receive him. You will consider whether Mr. Williams did so behave here. It is next said that he came to the inn at a late hour of the night, when probably the family were gone to bed. Have we not all knocked at inn doors at late hours of the night, and after the family have retired to rest, not for the purpose of annoyance, but to get the people up? In this case it further appears that the wife of the defendant has a conversation with the prosecutor in which she insists on knowing his name and abode. I think that an innkeeper has no right to insist on knowing those particulars; and certainly you and I would think an innkeeper very impertinent, who asked either the one or the other of either of us. However, the prosecutor gave his name and residence, and suppose he did add the words,

“and be damned to you,” is that a sufficient reason for keeping a man out of an inn who has travelled till midnight.” (*Rex v. Ivens*, 7 C. & P. 213, (1835).)

With respect to payment beforehand it seems that an innkeeper has by law a right to demand payment beforehand for everything he provides at the request of the guest. (*Fell v. Knight*, 8 M. & W. 269, 276 ; 5 Jur. 554 (1841).)

*The Case of Mr. Cramer and His Dog.*

Mr. Cramer, a resident of Worthing, insisted on entering a local refreshment bar known as the “Carlton,” attached to the “Sea View Hotel,” but provided with a separate entrance, accompanied by a large dog, and demanded refreshment. Mr. Byrne, the landlord, objected to the dog, and had complained of it before ; he, therefore, refused to serve the master so long as the dog was there. He was indicted for this at the West Sussex Quarter Sessions and found guilty, but the conviction was quashed on appeal. The judges held :—

- (1) That a mere refreshment bar is not an inn, and the proprietor is not bound to serve every one who comes ;
- (2) That the prosecutor was not a traveller and could not have demanded refreshment as of right, even at an inn ;
- (3) That, even had the “Carlton” been an inn, the prosecutor could not have insisted on entering with a large dog which was objectionable to the other customers.

One of the judges went so far as to say “I only wish to add, that in my opinion, a guest cannot,

under any circumstances, insist on bringing a dog into any room or place in an inn where other guests are." (*Reg. v. Byrne*, 2 Q.B.D. 136 (1877).)

If a guest misconducts himself at an inn by being disorderly, or getting drunk, or behaving in a manner shocking to the moral feelings of a reasonable innkeeper he may be turned out, and if he commits a breach of the peace he may not only be turned out, but may also be given into the custody of a constable.

*The Bonneting at the "Hercules," in Leadenhall Street.*

In 1834, on a November morning, young Howell who had been behaving in a disorderly manner in the "Hercules" public-house in Leadenhall-street, refusing to go when requested to do so by Mr. Jackson, the landlord, was turned out by that gentleman and given into the custody of a watchman. Howell brought an action against the landlord for false imprisonment, and quoting the report of the case, this was the chief evidence given at the trial. "For the defendant, Ward, the watchman, was called. He stated, that on the evening of the 6th of November, he was on duty, and, in consequence of hearing a noise, he went into the defendant's public-house, where he found the plaintiff and five or six other young men 'skylarking, bonneting, and kicking up a rumption, and there was a piece of work.' This witness explained that by the term 'bonneting,' he meant that the persons were striking each other upon the hat, so as to drive the hat down over the face of the wearer. Of the terms 'skylarking' and 'rumption' he gave no explanation. This witness said that he took the plaintiff by the

collar, and led him out of the house, and took him for about fifteen yards along the street, when he let the plaintiff go, and the latter immediately said he would go back and have his revenge, and went in a direction towards the defendant's house. This witness further stated, that he went round his beat, and that, on his return to the neighbourhood of the defendant's house, he heard a person at the door of it cry ' Watch,' and that he in consequence went in, and there found the plaintiff sitting down, whereupon the witness sprung his rattle, and the defendant tried to put the plaintiff out of the house, the plaintiff having hold of the defendant's collar to resist being put out; upon which the witness with the assistance of another witness named Griffith, took the plaintiff into custody, and took him to the watch-house from which he was sent to Giltspur-street, Compter."

Baron Parke said, in his summing up to the jury, " If a man comes into a public-house, and conducts himself in a disorderly manner, and the landlord requests him to go out and he will not, the landlord may turn him out. There is no doubt that a landlord may turn out a person who is making a disturbance in a public-house, though such disturbance does not amount to a breach of the peace. To do this, the landlord may lay hands on him; and in so doing the landlord is not guilty of any breach of the peace. But if the person resists and lays hands on the landlord, that is an unjustifiable assault upon the landlord . . . There might, it is true, be a sufficient breach of the peace to justify the defendant as the landlord of the house in giving the

plaintiff into custody without this assault at all. For if the plaintiff made such a noise and disturbance as would create alarm, and would disgust the neighbourhood and the persons passing along the adjacent street, that would be such a breach of the peace as would not only authorise the landlord to turn the plaintiff out of the house, but it would also give the landlord a right to have the plaintiff taken into custody if this occurred in view of the watchman." *Howell v. Jackson*, 6 C. & P. 723 (1834).

As to the penalties imposed on a licensed person who permits drunkenness, or any violent or riotous conduct on his premises, or harbours thieves, prostitutes, or constables. (*See on pp. 67-70*).

Section 18 of the Licensing Act, 1872, provides as follows:—"Any licensed person may refuse to admit or may turn out of the premises in respect of which his licence is granted, any person who is drunken, violent, quarrelsome, or disorderly, and any person whose presence on his premises would subject him to a penalty under this Act. (*See p. 68*).

"Any such person who, upon being requested in pursuance of this section by such licensed person, or his agent, or servant, or any constable to quit such premises, refuses or fails so to do, shall be liable to a penalty not exceeding five pounds, and all constables are required on the demand of such licensed person, agent, or servant to expel or assist in expelling every such person from such premises, and may use such force as may be required for such purpose."

In turning an objectionable person out only such force must be used as is reasonably necessary for the



purpose; the landlord may not legally knock him down however strongly tempted so to do, unless such procedure is necessary for the protection of himself or his family, servants, or guests.

THE INNKEEPER'S RESPONSIBILITY FOR THE SAFETY OF  
THE GOODS OF HIS GUEST.

It is the duty of an innkeeper to take the greatest care of the goods of his guest brought to his inn, and if the goods are stolen, injured, or destroyed, the presumption is that the innkeeper is to blame, unless the goods have been stolen by a servant of the guest or by a person brought to the inn by the guest, or the loss or destruction has been caused by the Queen's enemies or by the Act of God. (*See Calye's Case, Smith's Leading Cases, 9th ed. Vol. 1, p. 132*).

Nevertheless, the innkeeper will not be liable if it can be shown that the loss would not have happened if the guest had used the ordinary care that a prudent man might be reasonably expected to have taken under the circumstances. (*Cashill v. Wright, 6 E. & B. 891; 2 Jur. N.S. 1072 (1856).*)

On the other hand an innkeeper will not be excused by proof of his guest's negligence if his own conduct or that of his servants has been such that but for their want of care the goods would not have been lost, notwithstanding the guest has been guilty of some negligence.

Whether the fact of the guest having omitted to lock his door, or deposit his goods with the innkeeper when invited to do so, will be treated as negligence on his part, will depend on the circumstances of the case.



*The Case of Mr. Oppenheim.*

In the year 1871, a London merchant put up at the "White Lion Hotel," in Bristol, for the night, the house being full of guests at the time. While in the commercial room he took out of his pocket a canvas bag containing £22 in gold, a £5 note, and some silver. He did not shew the money, except sixpence, which he paid the waiter for some stamps. He was shown to a bedroom on an upper story, with a window opening on to a balcony. The chambermaid told him the window was open, but he replied that he always slept with his window open. The door was provided with a lock and a bolt, but he neither turned the key nor drew the bolt. He placed his trousers, containing in a pocket the canvas money bag, on a chair, and went to bed. When he awoke in the morning, the trousers were there, but the money and the canvas bag were gone.

Mr. Oppenheim sought to make the hotel company responsible for his loss, and sued them in the County Court, but lost his case; he appealed to the Court of Common Pleas and lost it again. In that case Mr. Justice Montague Smith said, "I agree that there is no obligation on a guest to lock his bedroom door. Though it is a precaution which a prudent man would take, I am far from saying that the omission to do so alone would release the innkeeper from his ordinary responsibility . . . . But the fact of the guest having the means of securing himself, and choosing not to use them, is one which, with the other circumstances of the case should be left to the jury. The weight of it must of course depend upon the state of society at the time and place. What

would be prudent in a small hotel in a small town, might be the extreme of imprudence at a large hotel in a city like Bristol, where probably three hundred bedrooms are occupied by people of all sorts.” (*Oppenheim v. White Lion Hotel Company*, *L.R.* 6 *C.P.* 515 ; 40 *L.J.*, *C.P.* 231 ; 25 *L.T.* 93 (1871).)

A commercial traveller staying at an inn, left his driving box, as was the custom with commercial gentlemen at the place, in the commercial room during the night. The box was insecurely fastened, so that anyone could open it without a key. He had been seen on more than one occasion to open the box and count the bank notes kept there. He was held to have been guilty of such negligence as to be disentitled from recovering, when one night the notes were stolen. (*Armistead v. Wilde*, 17 *Q.B.D.* 261 ; 20 *L.J.*, *Q.B.* 524 (1886).)

In another case a guest arrived at a hotel in the morning, and was shewn to a bedroom where a placard hung on the wall containing the following notice: “The proprietor will be happy to take charge of any valuables.” He left his trousers with money in the pockets, also other monies in a “Gladstone” bag, which he locked, in the bedroom. When he returned in the evening all the money had been stolen. The jury, for some reason or other, came to the conclusion that the guest was negligent in leaving money in the bag, but gave him a verdict for the money in the trousers pockets. When the plaintiff moved the Court of Exchequer for a rule on the point of law, the verdict of the jury in respect of his negligence in disregarding the invitation of the innkeeper was upheld. (*Jones v. Jackson*, 29 *L.T.* 399 (1873).)

The liability of an innkeeper extends to goods of a guest in any part of the inn premises, including horses in the stables, and carriages in the coach-house, and if he is in the habit of using part of the street for standing carriages when he has put the horses into his stables, he may be held liable for their safe custody. If, however, he has left a carriage in the road, at the request of a guest, and not in accordance with his own custom, or for his own convenience, he will not be liable for it, unless he has consented to look after it, and has been guilty of negligence in so doing. (*Jones v. Tyler*, 1 A. & E. 522 ; 3 N. & M., 576 (1834).)

If a guest hires a room at an inn, not as a guest chamber, but as a show-room or warehouse for his goods, having himself exclusive control over the room for the time being, he must look after the goods himself, for the innkeeper will not be responsible for them. (*Farnworth v. Packwood*, 1 Stark, 249 (1816).)

Neither a lodging-housekeeper, nor the keeper of a boarding-house, are liable as innkeepers for the safety of their guests' goods (*Holden v. Soulby*, 8 C.B., N.S. 254 ; 29 L.J., C.P. 246, 1860 ; *Dansey v. Richardson*, 3 E. & B. 144 ; 23 L.J., Q.B. 217 (1854), and an innkeeper who receives people under a definite arrangement that they are to remain at his inn as boarders or lodgers, will not be liable for the safety of their goods, unless his agreement with them provides therefor, or unless he has been guilty of some gross negligence, which has brought about the loss. If, however, a person who comes to the inn as a guest, remains in the character of a

## 50 *Duty of an Innkeeper towards his Guest.*

boarder, it is doubtful whether the innkeeper can avoid his Common Law liability.

If a guest requests the innkeeper to put his horse out to pasture, the innkeeper will not be liable if the horse be stolen from the meadow, but if the innkeeper has put out the horse to pasture for his own convenience, he will remain as much liable for its safe custody, as if it had been stolen from the inn stables. (*Calye's Case, Smith's Leading Cases, 9th ed., Vol. 1, p. 132*).

If the inn belongs to a company which has placed a paid manager in charge, a guest who has lost his goods there, must sue the company, not the manager, for the manager is not regarded as the innkeeper, so as to be liable for the loss. (*Dixon v. Birch, L.R., Ex. 135; 42 L.J. Ex. 135; 28 L.T. 360 (1873)*).

If a person who is not a guest leaves goods at an inn by consent of the landlord, or if a guest, on leaving an inn, deposits his goods with the innkeeper for safe custody, or if the innkeeper has retained the goods on account of his lien, he is only bound to take such care of them as a reasonable man would take of his own goods, and his negligence will not be presumed from the mere fact of their having been injured or stolen while in his possession. (*Angus v. McLachlan, 23-C.D. 330; 52 L.J. Ch. 587; 48 L.T. 863 (1883)*).

*How an innkeeper may limit his liability to a sum not exceeding £30. (Innkeepers' Act, 1863).*

An innkeeper may limit his liability in respect of his guest's goods (except carriages, horses, and other animals) by posting or fixing up in a conspicuous part of the hall or entrance to his inn, a copy of

the first section of the Innkeepers' Act, 1863, printed in plain type. (26 & 27 *Vict.*, c. 41, s. 1).

“No innkeeper shall, after the passing of this Act, be liable to make good to any guest of such innkeeper any loss of, or injury to, goods or property brought to his inn, not being a horse or other live animal, or any gear appertaining thereto, or any carriage, to a greater amount than a sum of £30, except in the following cases (that is to say) :—

(1) When such goods or property shall have been stolen, lost or injured through the wilful act, default, or neglect of such innkeeper, or any servant in his employ.

(2) When such property or goods shall have been deposited for safe custody with such innkeeper.

Provided always, that in the case of such deposit, it shall be lawful for such innkeeper, if he thinks fit, to require, as a condition of his liability, that such goods or property shall be deposited in a box or other receptacle, fastened and sealed by the person depositing the same.”

The copy of the above section must be a correct copy, no material word being omitted, otherwise the innkeeper will not be protected.

We will now consider what will be the position of an innkeeper who has posted or fixed up in a conspicuous part of his hall or entrance a correct copy of the section plainly printed.

(1) He will be liable for the loss of a horse or any other live animal, or any gear appertaining thereto, or any carriage, to any amount, also for other goods to the amount of £30 unless the loss has arisen from the act of God, or the

Queen's enemies, or by the negligence of the guest.

(2) He will not be liable for the loss or injury of any goods (except horses, or other live animals, or their gear, and carriages), beyond the amount of £30, unless,—

(a) Such goods were lost or injured through the wilful act, or through the default or neglect of himself, or his servants, or,

(b) Such goods were deposited with him for safe custody, and were lost, or injured, while under his charge, or,

(c) He has refused to receive such goods for safe custody when requested to do so by the guest, or,

(d) Through his default the guest has been unable to deposit the goods for safe custody.

(3) If he provides a box or other receptacle, and requires the guest to deposit the goods in it, and fasten and seal the same, saying that he will not otherwise be liable for their safety, and the guest refuses or omits to comply with this condition, then the innkeeper will not be liable for the loss or injury of such goods beyond the amount of £30.

A guest who wishes to leave his goods in the landlord's custody, should deliver them to the landlord himself, or someone who has authority to receive them. A guest who handed his bag containing valuables to the boots, who had no authority from the landlord to receive the custody of valuables, has been held unable to recover more than £30. (*Moss v. Russell*, 1 *T.L.R.* 13 (1884).)



AN INNKEEPER'S LIABILITY FOR THE SAFETY OF HIS  
GUEST.

An innkeeper is bound to take reasonable care of the persons of his guests, so that they are not injured by reason of his negligence, and a guest who was injured by the falling of a part of the ceiling in the room he was occupying has been held entitled to recover damages from the innkeeper. (*Sandys v. Florence*, 47 *L.J.*, *C.P.* 598 (1878).)

But this rule does not apply to all parts of an inn, and if a guest is injured through his going into a room where he had no reasonable cause to suppose he was invited to go either expressly, or by implication, the innkeeper will not be liable. When a guest wandered into a dark service-room in the middle of the night, and fell down the unguarded well of a lift, his representatives were held not entitled to recover. (*Walker v. Midland Railway Company*, 55 *L.T.* 489; 51 *J.P.* 116 (1886).)



## CHAPTER VII.

## THE INNKEEPER'S LIEN.

Not only may an innkeeper bring an action against his guest for his reasonable charges, but he has a lien on the goods of the guest brought to the inn, that is, he may keep them as a security until the debt is paid.

This right extends to all the goods of the guest brought to the inn. Nevertheless, he may not take the clothes off his back or the money from his pocket, for that would be to commit an assault.

He may retain all the goods of the guest until all his reasonable charges have been paid. He is not bound to return a portion of the goods on receiving a portion of his debt.

If he allows the goods to be taken away, he will lose his lien on them unless they are only taken away for a temporary purpose, as when the guest takes away his horse to ride on the understanding that he will bring it back.

If a guest takes away his goods, on which the innkeeper has a lien, without the innkeeper's consent the latter may recover them if he can.

*The Case of the Naval Lieutenant.*

The sheriff of Surrey seized in execution the goods of a naval officer staying at a hotel in the Westminster Bridge Road. The landlord claimed a lien on

the goods, £35 17s. 9d., for seven weeks' board and lodging, £7 9s. 0d. for money lent, and further sums for washing and chaise hire, making in all £46 10s. 10d. When the innkeepers' wife lent the money and paid for the washing, she did so on the understanding that the goods should be *pledged as security for repayment*. On the trial of an action between the innkeeper and the sheriff, Lord Abinger, C.B., made the following remarks in his summing up to the jury :—" The main question here is as to the amount of the plaintiff's lien ; and on this point we find that Mr. S. is a lieutenant in the royal navy, and the son of a lady of fortune, and that he had lived for seven weeks within a few days at the plaintiff's hotel. The bill altogether for this is £46 10s. 10d., including chaise hire, money lent, and a few other trifles. The sum for board and lodging is £35 17s. 9d., which is about £5 per week. You are, of course, aware that a person residing at a hotel cannot live so cheaply as at his own house ; for instance, a glass of brandy and water is charged a shilling, and if a man orders a bottle of champagne, and drinks but two glasses, he would have to pay for the whole bottle. I confess that the charges do not appear to me extravagant, and you will say whether they appear so to you. With respect to the money paid and the money lent, you will consider whether it was understood between the plaintiff's wife and Mr. S., at the time of those advances, that the goods in question were to be considered as a security for these sums. It has been urged that the plaintiff was asked not to allow his guest more than a certain quantity of brandy and water, and that the guest's

mother sent to him to that effect; however, I must say, that I never heard that the landlord of an inn was bound to investigate the nature of the articles which were ordered by a guest before he supplied them. The landlord of an inn may supply whatever things a guest orders, and the guest is bound to pay for them, provided that the guest be in possession of his reason and is not an infant. In either of these latter cases the landlord must look to himself, but nothing of that sort is suggested in the present case.” (*Proctor v. Nicholson*, 7 C. & P. 67 (1835).)

If a guest brings to an inn goods not his own, even if the goods have been stolen, the innkeeper will have a lien over them, unless he knew the fact when he supplied the guest with board and lodging.

“If A. injuriously take away the horse of B. and put him into an inn to be kept, and B. come and demand him, he shall not have him until he hath satisfied the innkeeper for his meat: for when an innkeeper takes a horse into his keeping he is not bound to enquire who is the owner of the horse which he is obliged to keep, let him belong to whom it will, and therefore no reason that the innkeeper should be obliged to deliver him until he is satisfied.” (*Bac. Abr. Tit., Innkeepers*).

If a man and his wife stay together at an inn, and credit is given to the husband, the innkeeper will have a lien for his charges not only against the goods of the husband, but also against the goods of the wife. He is not bound to discriminate between them. This will hold good although the innkeeper by having looked to the husband for payment, may have no right to sue the wife for any part of the

money due. (*Gordon v. Silber*, 25 Q.B.D. 491 ; 59 L.J., Q.B. 509 ; 63 L.T. 283 (1890).)

In other cases an innkeeper has no lien on goods brought to an inn which he knew were not the property of the guest.

### *The Forgetful Musician.*

Mr. Broadwood, the well known piano maker let a grand piano on hire to a pianist staying at a hotel in Leicester Place. When the latter gentleman departed without remembering either to pay his hotel bill or return the piano, Mr. Granara, the landlord, retained the instrument as security for the amount of his debt. Now Granara knew from the first that the piano was hired, and was not the property of his guest : consequently he was held not entitled to keep it as security for his money. (*Granara v. Broadwood*, L.R. 10 Ex. 417 ; 24 L.J., Ex. 1 (1854).)

If an innkeeper gives credit to his guest for the amount of his bill, not looking to him for immediate payment, his lien on the goods will not arise so long as the credit lasts. But the mere fact of his taking other security such as a bill or note will not destroy his right of lien unless it appears that he agreed to wait till a future day for payment. (*Angus v. M'Lachlan*, 23 C.D. 330 ; 52 L.J., Ch. 587 ; 48 L.T. 863 (1883).)

An innkeeper has no lien on goods left by a person who is not a guest, unless it be a horse, in which case he will have a lien for the cost of its keep. If, however, the innkeeper be also a livery stable keeper and receive the horse as such, he will have no lien.

(*Orchard v. Rackstraw*, 9 C.B. 698; 19 L.J., C.P. 303 (1850).)

The goods of a person staying at an inn, not as a guest, but as a lodger or boarder (*see p. 49*), cannot be retained for the innkeeper's lien, for in these cases the innkeeper is not responsible for their safe custody, and such responsibility is co-extensive with the right of lien.

A tender by the guest of the whole sum due from him puts an end at once to the lien of the innkeeper who must deliver up the goods immediately whether he accepts the money or not. He cannot insist on being paid a further sum for having taken care of the goods, for he has retained possession of them, not to accommodate the guest, but for his own security. (*Soames v. British Empire Shipping Coy.*, 8 H.L.C. 338; 30 L.J., Q.B. 229 (1860).)

If a guest leaves an inn without paying his bill, and the landlord keeps his goods on account of lien, he is bound to take such care of them as a reasonable man would take of his own goods, but he is not liable to the same extent as if the guest were still enjoying his hospitality. (*Angus v. M'Lachlan*, 23 C.P. 330; 52 L.J., Ch. 587 48 L.T. 863 (1883).)

*Right of Innkeeper to sell goods on which he has a lien.*

The Innkeepers Act, 1878, provides in section 1, for the sale by innkeepers of goods over which they have a lien. The section which is unusually intelligible is as follows:—

“ The landlord, proprietor, keeper, or manager of any hotel, inn, or licensed public house shall in addition to his ordinary lien, have the right abso-

lutely to sell and dispose by public auction of any goods, chattels, carriages, horses, wares, or merchandise which may have been deposited with him or left in the house he keeps, or in the coach-house, stable, stable yard, or other premises appurtenant or belonging thereto, where the person depositing or leaving such goods, chattels, carriages, horses, wares, or merchandise shall be or become indebted to the said innkeeper either for any board or lodging, or for the keep and expenses of any horse or other animal left with or standing at livery in the stables or fields occupied by such innkeeper.

“ Provided that no such sale shall be made until after the said goods, chattels, carriages, horses, wares, or merchandise shall have been for the space of six weeks in such charge or custody, or in or upon such premises without such debt having been paid or satisfied, and that such innkeeper, after having, out of the proceeds of such sale, paid himself the amount of any such debt, together with the costs and expenses of such sale, shall, on demand, pay to the person depositing or leaving any such goods, chattels, carriages, horses, wares, or merchandise the surplus (if any) remaining after such sale ; provided further, that the debt for the payment of which a sale is made shall not be any other or greater debt than the debt for which the goods or other articles could have been retained by the innkeeper under his lien.

“ Provided also, that at least one month before any such sale the landlord, proprietor, keeper, or manager shall cause to be inserted in one London newspaper, or one county newspaper circulating in the district where such goods, chattels, carriages, horses, wares,

or merchandise, or some of them, shall have been deposited or left, an advertisement containing notice of such intended sale, and giving shortly a description of the goods and chattels intended to be sold, together with the name of the owner or person who deposited or left the same when known.''



## CHAPTER VIII.

## OFFENCES AND PENALTIES.

*Selling intoxicating liquors without a licence ; Selling after closing time ; Evidence of sale ; Entertainments, &c., on Sunday ; Keeping open when ordered to close in time of riot ; Selling otherwise than in standard measures ; Taking a pledge for the price of liquor ; Adulteration of drink ; Possession of liquors not covered by licence ; Allowing drunkenness or riotous conduct on premises, or selling to drunken person ; Selling intoxicating liquors to children ; Employment of children ; Harbouring thieves ; Harbouring prostitutes ; Harbouring or bribing constables ; Permitting premises to be a brothel ; Gaming and betting ; Non-production of licence when demanded ; Forging a licence ; Refusing to admit constable ; Making or using an internal communication with unlicensed premises ; Letting premises for election purposes ; Allowing unlawful meetings ; Infectious diseases ; Signboards and notices ; Offences relating to billeting ; Offences in refreshment houses.*

## SELLING INTOXICATING LIQUOR WITHOUT A LICENCE.

Any person selling or exposing for sale by retail any intoxicating liquor which he is not licensed to sell, or selling or exposing for sale in a place not covered by his licence, is liable to the following penalties :—

- (1) For the first offence, a fine not exceeding £50, or imprisonment for not longer than one month.

(2) For the second offence, a fine not exceeding £100 or imprisonment for not more than three months. He may be disqualified for not more than five years from holding any licence for the sale of intoxicating liquors. If he is a licence holder his licence will be forfeited. The court may declare all intoxicating liquor found in his possession and the vessels containing it to be forfeited.

(3) For the third offence, a fine not exceeding £100 or imprisonment for not longer than six months. He may be disqualified for any term or for ever, and the same rules apply as to forfeiture of licence and liquor as above. (*Lic. Act, 1872, s. 3*).

The above mentioned penalties will be incurred by any occupier or occupiers of premises who are aware of such illegal sale and do not try to prevent it, by whomever the liquor may be actually sold. (*Lic. Act, 1872, s. 4*).

If the seller of any intoxicating liquor for which he has not an on-licence allows the purchaser to drink the liquor on the premises or on any near or adjoining premises belonging to the seller or under his control, or on the adjacent highway, the seller will be liable ;

(1) For the first offence, to a fine not exceeding £10 ;

(2) For the second or any subsequent offence, to a fine not exceeding £20. (*Lic. Act, 1872, s. 5*).

Convictions under this section may be recorded on the licence.

The law may not be evaded by carrying or sending

the liquor to another place outside the premises in order that it may be sold and drunk there. Such conduct will subject the seller to the penalties provided in section 5 of the Act of 1872, and convictions may be recorded on the licence. (*Lic. Act, 1872, s. 6*).

If a licence holder dies or goes into bankruptcy or liquidation before the termination of his licence, his heir, executors, administrators, or assigns, in the first case, or his trustee in the second or third case, will not be liable for selling intoxicating liquors on the premises between the date of the death, bankruptcy, or liquidation of the licence holder and the next Special Sessions. If the next Special Sessions are held within fourteen days of the death, bankruptcy or liquidation, they may go on selling till the next Special Sessions following. (*See p. 29. Lic. Act, 1872, s. 3*).

A licensed holder selling at fairs or races outside his licensed premises without an occasional licence (*see p. 32*) will incur the penalties provided by section 3 of the Act of 1872. (*Lic. Act, 1874, s. 18*).

#### SELLING INTOXICATING LIQUORS AFTER CLOSING TIME.

For allowing intoxicating liquors to be purchased on the premises after closing time, or allowing intoxicating liquors purchased before the hour of closing to be consumed on the premises after closing time, a licence holder is liable to a penalty not exceeding £10 for the first, or £20 for any subsequent offence. (*Lic. Act, 1874, s. 9*). A conviction may be recorded on the licence. (*See p. 87*).

As to the exemptions in the cases of *bonâ fide* travellers and lodgers see pages 9 & 12.

## EVIDENCE OF SALE OR CONSUMPTION OF INTOXICATING LIQUORS.

“In proving the sale or consumption of intoxicating liquors for the purpose of any proceeding relative to any offence under this Act, (*Lic. Act, 1872*, extended to *Lic. Act, 1874*, see s. 1), it shall not be necessary to show that any money actually passed or any intoxicating liquor was actually consumed, if the court hearing the case be satisfied that a transaction in the nature of a sale actually took place, or that any consumption of intoxicating liquor was about to take place, and proof of consumption, or intended consumption, of intoxicating liquor on premises to which a licence under this Act is attached, by some person other than the occupier of or a servant in such premises, shall be evidence that such liquor was sold to the person consuming, or being about to consume, or carrying away the same by or on behalf of the holder of such licence.” (*Lic. Act, 1872*, s. 62).

This section will apply in the case of the offences mentioned under the two last headings, also to the sale of intoxicating liquors to children, for which see page 68.

## ENTERTAINMENTS, ETC., ON SUNDAY.

An innkeeper may not allow any part of his house to be used for any public entertainment or amusement or for public debating on any subject to which persons are admitted by payment or by tickets sold for money on Sunday. Neither may he avoid this rule by charging higher prices for refreshments provided on that day than on ordinary occasions. An innkeeper offending will be liable to a fine of £200,

any person conducting the entertainment, £100, and any doorkeeper or servant assisting in the same, £50. Actions must be brought within six months. (21 *Geo. III. c. 49, s. 1*).

KEEPING PREMISES OPEN WHEN ORDERED TO CLOSE  
THEM IN TIME OF RIOT.

When riot or tumult happens, or is expected to happen, any two justices may order licensed houses in the neighbourhood to be closed. A licence holder keeping his premises open for the sale of intoxicating liquors when ordered to close them under the above circumstance is liable to a penalty not exceeding £50. (*Lic. Act 1872, s, 23*).

SELLING OTHERWISE THAN BY STANDARD MEASURE.

Every person who sells or allows any person under his control to sell half-a-pint or more of any intoxicating liquor (not in casks or bottles) by retail, otherwise than in measures marked according to the imperial standards, will be liable to forfeit the illegal measure in which the liquor was sold, and will be liable to a fine not exceeding £10 for a first, or £20 for any subsequent offence. (*Lic. Act, 1872, s. 8*). A sale of more than half-a-pint in a measure not marked is illegal, although the quantity asked for is not such as is provided for by any standard measure. (*Payne v. Thomas 60 L.J., M.C. 3; 63 L.T. 456; 54 J.P. 824 (1890).*)

TAKING A PLEDGE FOR THE PRICE OF LIQUORS.

A retailer of spirituous liquors who takes or receives any pawn or pledge as security for monies owing for spirituous liquors sold by retail is liable to

a fine of forty shillings for every pawn or pledge taken, and the owner of the pawn or pledge may recover it without paying the money owed. (24 *Geo. II.*, c. 40, s. 12).

#### ADULTERATION OF DRINK.

Section 8 of 48 & 49 *Vict.*, c. 51, deals with the adulteration of beer as follows:—

“A dealer or retailer of beer shall not adulterate or dilute beer or add any matter or thing thereto (except finings for the purpose of clarification), and any beer found to be adulterated or diluted or mixed with any other matter or thing (except finings) in the possession of a dealer in or retailer of beer, shall be forfeited, and he shall incur a fine of £50.” A publican has been convicted under this section for diluting strong beer with weak beer. (*Crofts v. Taylor*, 19 *Q.B.D.*, 524; 56 *L.J.*, *M.C.*, 137; 57 *L.T.*, 310; 51 *J.P.*, 532 (1887).)

The question of adulteration is further dealt with in the Sale of Food and Drugs Acts, 1875 & 1879. A penalty of £5 for the first offence and six months' imprisonment for subsequent offences is imposed on persons convicted of mixing injurious ingredients with food or drugs and selling the same. (38, 39 *Vict.*, c. 63, ss. 3, 4).

A penalty of £20 is imposed on persons selling articles of food or drugs not of the nature, substance, and quality of the article demanded, except where the mixing is necessary or unavoidable in the process of the production of the article as an article of commerce, and the added ingredient is not injurious to health. (*Id.* s. 6).



As respects the adulteration of pure spirits with water, a seller will not be convicted for selling brandy, whiskey, or rum twenty-five degrees under proof, or gin thirty-five degrees under proof. (42 & 43 *Vict.*, c. 30, s. 6).

If a licensed person is convicted of an offence under any of the Acts above mentioned the conviction will be entered in the register, and may be recorded on the licence, as if it were a conviction under one of the Licensing Acts. (*Lic. Act*, 1874, s. 14).

POSSESSION OF INTOXICATING LIQUORS NOT COVERED BY  
LICENCE.

A licence holder on whose premises is found any kind of intoxicating liquor, which he is not authorised to sell, will, unless he can show that he was in possession of the liquor innocently, and not for the purpose of sale, incur a fine not exceeding £10 for the first, or £20 for any subsequent offence. (*Lic. Act*, 1872, s. 10).

DRUNKENNESS OR RIOTOUS CONDUCT ON THE PREMISES.

Any person found drunk on licensed premises, even if it be the landlord unobtrusively drunk in his own bed, will be liable to a fine not exceeding ten shillings. A second conviction within the space of twelve months will be visited with a fine not exceeding twenty shillings, and a third or any subsequent conviction within the same period, will be visited with a fine not exceeding fifty shillings. (*Lic. Act*, 1872, s. 12).

A licensed person permitting drunkenness, or any violent, quarrelsome, or riotous conduct to take



place on his premises, or selling any intoxicating liquor to any drunken person, will be liable to a fine not exceeding £10 for the first, or £20 for any subsequent offence, and the conviction may be recorded on the licence. (*Lic. Act, 1872, s. 13*).

As regards selling liquor to a drunken person, it is the landlord's duty to know whether a person he serves is drunk or sober, and he will not escape conviction by showing that he did not know the customer was drunk. (*Cundy v. Lecocq, 13 Q.B.D., 207; 53 L.J., M.C., 125; 51 L.T., 265; 48 J.P., 599 (1884).*)

A landlord will be liable for the acts of persons under his control, if they or any one of them has sold intoxicating liquor to a drunken person, unless he can show that he has done his best to prevent such things happening.

Section 18 of the Act of 1872 authorises a licensed person to turn out drunken or disorderly people from his house, and he may call in a constable to assist him, if necessary. (*See pp. 43-45*).

#### SELLING INTOXICATING LIQUORS TO CHILDREN.

A licence holder who sells or allows any person to sell any kind of spirits to a child apparently under sixteen, to be consumed on the premises, will be liable to a fine not exceeding twenty shillings for the first, or forty shillings for any subsequent offence. (*Lic. Act, 1872, s. 7*).

For selling any kind of intoxicating liquors to a child under thirteen, to be consumed on the premises by the child purchaser or any other child under thirteen, a licence holder will incur a fine not

exceeding twenty shillings for the first, or forty shillings for any subsequent offence. (49 & 50 *Vict.*, c. 56, s. 1).

#### EMPLOYMENT OF CHILDREN.

Any person causing or procuring any boy under the age of fourteen years, or girl under the age of sixteen years to be in any licensed premises for the purposes of singing, playing, or performing for profit, or offering anything for sale, between 10 p.m. and 5 a.m., or any child under the age of ten years for the like purpose at any house, is liable to a fine not exceeding £25, or imprisonment for not more than three months, or both fine and imprisonment. (52 & 53 *Vict.*, c. 44, s. 1).

#### HARBOURING THIEVES.

The Prevention of Crimes Act, 1871 (34 & 35 *Vict.*, c. 112, s. 10) provides that every occupier of a house where intoxicating liquors are sold, who "knowingly lodges or knowingly harbours thieves or reputed thieves, or knowingly permits or knowingly suffers them to meet or assemble therein, or knowingly allows the deposit of goods therein, having reasonable cause for believing them to be stolen, shall be guilty of an offence against this Act, and be liable to a penalty not exceeding £10, and in default of payment to be imprisoned for a period not exceeding four months, with or without hard labour," etc.

For a first offence his licence may be, and for a subsequent offence shall be forfeited, and himself be disqualified for two years from receiving any such licence. Two convictions within three years in

respect of the same premises will cause the premises to be disqualified for one year.

If the licence holder knows a person to be a thief he may not harbour him, although he may have cause to believe that he has come for no dishonest purpose.

#### HARBOURING PROSTITUTES.

“ If any licensed person knowingly permits his premises to be the habitual resort of, or place of meeting of reputed prostitutes, whether the object of their so resorting or meeting is or is not prostitution, he shall, if he allow them to remain thereon longer than is necessary for the purpose of obtaining reasonable refreshment, be liable to a penalty not exceeding for the first offence £10, and not exceeding for the second and any subsequent offence £20.” (*Lic. Act, 1872, s. 14*). A conviction may be recorded on the licence.

#### HARBOURING OR BRIBING CONSTABLES.

“ If any licensed person—

- “ (1) Knowingly harbours or knowingly suffers to  
     “ remain on his premises any constable during  
     “ any part of the time appointed for such con-  
     “ stable being on duty, unless for the purpose of  
     “ keeping or restoring order, or in the execution  
     “ of his duty ; or
- “ (2) Supplies any liquor or refreshment, whether  
     “ by way of gift or sale, to any constable on  
     “ duty, unless by order of some superior officer  
     “ of such constable ; or
- “ (3) Bribes, or attempts to bribe, any constable,  
     “ he shall be liable to a penalty not exceeding

“ for the first offence £10, and not exceeding  
 “ for the second or any subsequent offence £20.”  
 (*Lic. Act*, 1872, s. 16). The conviction may be  
 recorded on the licence.

If the servant of a licence holder serves liquor to a constable on duty, the master will be liable, although he did not know of the act of his servant, unless the servant did it clandestinely, or unless the servant honestly believed that the constable was not on duty, or that he had the authority of the constable's superior officer, or did not know that the man he served was a constable. (*Mullins v. Collins*, *L.R.*, 9 *Q.B.*, 292; 48 *L.J.*, *M.C.*, 67; 29 *L.T.*, 838; 88 *J.P.*, 84 (1874).)

#### PERMITTING THE PREMISES TO BE A BROTHEL.

A licensed person who allows his premises to be used as a brothel is liable to a fine not exceeding £20, will forfeit his licence, and be disqualified for ever from holding any licence for the sale of intoxicating liquors. (*Lic. Act*, 1872, s. 15).

An innkeeper has been held rightly convicted under this section on proof that he allowed people to use his inn on one occasion for the purpose of having illicit sexual intercourse. (*Reg. v. Parts of Holland, Lincolnshire*, *J.J.*; 46 *J.P.*, 312 (1882).)

An innkeeper is not bound to ask every couple that comes to his inn for their marriage certificate, but, if he knows they intend to use his inn for an improper purpose he should not let them have a room.

#### GAMING AND BETTING.

Section 17 of the Licensing Act of 1872 is as follows :—

“ If any licensed person—

- “ (1) Suffers any gaming or any unlawful game to  
“ be carried on on his premises ; or
- “ (2) Opens, keeps, or uses, or suffers his house to  
“ be opened, kept, or used in contravention of  
“ the Act (16 & 17 Vic., c. 119) entitled ‘ An  
“ Act for the Suppression of Betting Houses,’  
“ he shall be liable to a penalty not exceeding  
“ for the first offence £10, and not exceeding  
“ for the second and any subsequent offence  
“ £20. A conviction may be recorded on the  
“ licence.”

Playing cards is not of itself unlawful, but playing any game for money or money’s worth, whether you play skittles for beer or whist for penny points, is gaming. (*Danford v. Taylor*, 20 *L.T.*, 483; 33 *J.P.*, 612 (1869) *Patten v. Rymer*, 29 *L.J.*, *M.C.* 189 (1860).) An innkeeper who allows his friends to play cards for money in his private parlour will be liable. (*Patten v. Rymer*, *above*).

Some games are of themselves unlawful if played in a licensed house, without proof that any stake has been played for. Mr. Justice Hawkins in the case of *Jenks v. Turpin* (13 *Q.B.D.*, 505; 53 *L.J.*, *M.C.*, 161; 50 *L.T.*, 808 (1884) ) decides that baccarat is an unlawful game, also—“ ace of hearts, pharoah, basset, hazard, passage, roulette, every game of dice, except backgammon, and every game of cards which is not a game of mere skill,” and he continues, “ I incline to add, any other game of mere chance.”

Other games are not unlawful, if not played for a stake. (*Reg. v. Ashton*, 1 *E. & B.*, 286; 22 *L.J.*, *M.C.*, 1 (1852).)

An innkeeper will not be made liable by the mere fact that there has been gaming on his premises if he was ignorant of the fact and had no reason to suspect it. On the other hand he will not be excused by the mere fact of his ignorance, if it appears that he purposely avoided knowing, took no pains to ascertain what was going on, and in fact connived at the gaming. If he leaves a servant in charge of the inn he will be liable for the knowledge or connivance of the servant. (*Redgate v. Haynes*, *L.R.*, 1 *Q.B.D.*, 89; 45 *L.J.*, *M.C.*, 65: 33 *L.T.*, 779 1876.)

Under section 4 of 17 & 18 *Vict.*, c. 38, the keeper of a common gaming house is liable to a fine of £500.

*(Betting Acts, 1853 & 1874).*

The question of betting stands on a somewhat different footing. An innkeeper is not liable for permitting persons to bet upon his premises, but he may not himself bet with comers to the inn, or hold deposits for betting purposes. Section 1 of the Betting Act of 1853 enacts as follows: "No house, office, room, or other place shall be opened, kept, or used for the purpose of the owner, occupier, or keeper thereof, or any person using the same, or any person procured or employed by, or acting for or on behalf of such owner, occupier, or keeper, or person using the same, or of any person having the care or management, or in any manner conducting the business thereof, betting with persons resorting thereto; or for the purpose of any money or valuable thing being received by or on behalf of such owner, occupier, keeper, or person as aforesaid, as or



for the consideration for any assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any horse race, or other race, fight, game, sports or exercise, or as or for the consideration for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency as aforesaid; and every house, office, room, or other place opened, kept, or used for the purposes aforesaid, or any of them, is hereby declared to be a common nuisance and contrary to law." (16 & 17 Vict., c. 119, s. 1).

An owner or occupier offending against this section is liable to a fine of £100 with costs, or in default six months' imprisonment with hard labour. (*Id.* s. 3).

The next section forbids any owner or occupier, etc. (*as above*) to "receive directly or indirectly, any money or valuable thing as a deposit on any bet on condition of paying any sum of money or other valuable thing on the happening of any event or contingency of or relating to a horse race or any other race, or any fight, game, sport, or exercise, or as for the consideration for any assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any monies or valuable thing on any such event or contingency, and any person giving any acknowledgment, note, security, or draft on the receipt of any money or valuable thing so paid or given as aforesaid purporting or intended to entitle the bearer or any other person to receive any money or valuable thing on the happening of any such event or contingency as aforesaid." Persons offending



against this section are liable to a fine of £50 and costs, or in default to three months' hard labour. (*Id.* s. 4).

Section 4 does not apply to persons holding stakes or deposits to be paid to the winner of any sport or the owner of a winning horse. (*Id.* s. 6).

Any person advertising such betting houses as above mentioned is liable to a penalty of £30 or two months' hard labour. (*Id.* s. 7 & 37 *Vict.*, c. 15).

*Powers of the Police.*

The justices (except in the Metropolitan Police District) may by warrant authorise constables to enter suspected gaming houses by force and arrest offenders. In the Metropolitan Police District this power is exercised by the Commissioners of Police. (8 & 9 *Vict.*, c. 109, ss. 3, 6, 7). Persons obstructing constables may be fined £100 and in default sent to prison for six months with hard labour, and such obstruction will be *primâ facie* evidence that the house is a common gaming house. (17 & 18 *Vict.*, c. 38, ss. 1, 2).

In respect of suspected betting houses the justices and the Commissioners of Police have the same powers of search as above. (16 & 17 *Vict.*, c. 119, ss. 11, 12).

*Billiards.*

An innkeeper who has a billiard table may not allow it to be used before eight o'clock in the morning, nor at any time on Sunday, Christmas Day, or Good Friday, or any day appointed to be kept as a public fast or thanksgiving, nor at any time when his

premises may not be open for the sale of intoxicating liquors. (8 & 9 Vict., c. 109, s. 13).

This prohibition extends to playing by guests lodging at the inn. (*Ovenden v. Raymond*, 34 L.T., 698 (1876).)

#### NON-PRODUCTION OF THE LICENCE WHEN DEMANDED.

A licence holder refusing to shew his licence to any justice of the peace, constable, or officer of Inland Revenue when required will be liable to a penalty not exceeding £5. (*Lic. Act*, 1872, s. 64).

#### FORGING A LICENCE.

Any person forging a licence under the Wine and Beerhouse Acts or tendering such licence knowing it to be forged is liable to a penalty not exceeding £20 or to imprisonment with hard labour for six months. He will also be disqualified for ever from holding a licence under the above mentioned Acts. (*Lic. Act*, 1869, s. 11).

#### DEFACING A RECORD OF CONVICTION.

Any person who defaces or obliterates or attempts to deface or obliterate any record of a conviction on his licence, is liable to a penalty not exceeding £5. (*Lic. Act*, 1872, s. 34).

#### REFUSING TO ADMIT A CONSTABLE.

Every person who by himself or by any person in his employ or acting by his direction or with his consent, refuses or fails to admit any constable in the execution of his duty demanding admittance for the purpose of preventing or detecting the violation of any of the provisions of the Licensing Acts, 1872

and 1874, is liable to a penalty not exceeding £5 for the first offence or £10 for any subsequent offence. (*Lic. Act, 1874, s. 16*).

#### INTERNAL COMMUNICATIONS WITH UNLICENSED PREMISES.

“Every person who makes or uses, or allows to be made or used, any internal communication between any licensed premises and any unlicensed premises which are used for public entertainment or resort, or as a refreshment house, shall be liable to a penalty not exceeding £10 for every day during which such communication remains open.” (*Lic. Act, 1872, s. 9*). In addition to this penalty a licence holder convicted will forfeit his licence. (*See pp. 6, 89*).

#### LETTING OR HIRING PREMISES FOR AN ELECTION MEETING OR COMMITTEE ROOM.

Any person letting or hiring licensed premises for the purpose of an election committee room, or for holding a meeting for procuring the election of a candidate at a municipal election, will be liable to a penalty not exceeding £100. (46 & 47 *Vict., c. 51, s. 20* ; 47 & 48 *Vict., c. 70, s. 16*). These sections will not apply if the room used for the above-mentioned purpose or purposes has a separate entrance and does not directly communicate with any part of the premises where intoxicating liquors are sold. (*Id.*)

#### UNLAWFUL MEETINGS.

An innkeeper who knowingly permits any meeting of any unlawful society or club within the meaning of the Acts of 39 Geo. III., c. 79 & 57 Geo. III., c. 19, to be held in his inn is liable for the first offence

to a penalty of £5 and for a subsequent offence will be deemed guilty of an unlawful combination and confederacy within the meaning of the Acts. (39 *Geo. III.*, c. 79, s. 13; 57 *Geo. III.*, c. 19, s. 28).

Any two justices having jurisdiction in the district may, upon hearing evidence on oath as to such meeting having taken place at an inn, may declare the licence to be forfeited. (39 *Geo. III.*, c. 79, s. 14; 57 *Geo. III.* c. 19, s. 29).

#### INFECTIOUS DISEASES.

An innkeeper admitting a guest to any part of an inn where a person suffering from any dangerous infectious disorder has been without having the place, and all articles there liable to retain infection, disinfected to the satisfaction of a qualified medical practitioner as testified by a certificate, is liable to a penalty not exceeding £20. (29, 30 *Vict.*, c. 9, s. 39; 38, 39 *Vict.*, c. 55, s. 128.

If he makes a false representation to a guest when questioned by him as to there being in the inn, or having been there within six weeks previously, any person suffering from an infectious, contagious, or epidemic disease, he is liable to a penalty not exceeding £20 or one month's imprisonment. (37, 38 *Vict.*, c. 89, s. 56; 38, 39 *Vict.*, c. 55, s. 129.

#### SIGNBOARDS AND NOTICES.

As to fixing up name, etc., of licensed person and penalties in respect of the same, see page 6. As to fixing up notices of exemption from closing regulations, and penalties, see page 18.

OFFENCES RELATING TO BILLETING.

“ If a keeper of a victualling house commits any  
“ of the offences following, that is to say:—

“ (1) Refuses or neglects to receive any officer,  
“ soldier, or horse billeted upon him in pursu-  
“ ance of this Act, or to furnish such accommo-  
“ dation as is required by this Act ; or

“ (2) Gives or agrees to give any money or reward  
“ to a constable to excuse or relieve him from  
“ being entered in a list as liable or from his  
“ liability to billets, or any part of such liability ;  
“ or

“ (3) Gives or agrees to give to any officer or  
“ soldier billeted upon him in pursuance of this  
“ Act any money or reward in lieu of receiving  
“ an officer, soldier, or horse, or furnishing the  
“ said accommodation :

“ He shall on summary conviction be liable to a fine of  
“ not less than forty shillings, and not exceeding £5.”  
(44 & 45 Vict., c. 58, s. 110).

OFFENCES IN REFRESHMENT HOUSES.

(*As to these see pp. 105-108*).

## CHAPTER IX.

LEGAL PROCEEDINGS IN RESPECT OF  
OFFENCES.

Charges for offences under the Licensing Act may be prosecuted before two or more justices at Petty Sessions, or a stipendiary magistrate, and the defendant and his wife are competent to give evidence at the hearing. (*Lic. Act*, 1872, s. 51).

## WHERE THE CHARGE IS NOT PROVED.

If the prosecutor or complainant fails to prove his case, the court may order him to pay to the defendant such costs as shall be just and reasonable, and may enforce the same by issuing a warrant of distress.

## WHERE THE CHARGE IS PROVED.

*Warrants of Distress.*

If a pecuniary penalty is inflicted upon the defendant, it may be enforced by a warrant of distress issued against the defendant's goods and chattels, and if no sufficient distress is to be found in the county or place where the warrant runs, it may be executed in another county or place where goods of the defendant are to be found after having been backed or endorsed by a justice in such county or place. Not only the penalty, but such costs also as the defendant may have been adjudged to pay, may

be enforced in the above manner. (11 & 12 Vict., c. 43, s. 19).

If the Court thinks fit, the issue of the warrant of distress may be postponed until such time, or on such conditions as the Court may determine, and if it appears that the defendant has insufficient goods to satisfy the distress, or that the levy of distress will be more injurious to him or his family than imprisonment, then the Court may if it thinks fit, instead of issuing a warrant of distress, order the person to be imprisoned on non-payment of the penalty, or the penalty and costs, for any time not longer than might be imposed, in default of sufficient distress, as provided below. (42 & 43 Vict., c. 49, s. 21).

The wearing apparel, and bedding of a defendant and his family, and the tools and implements of his trade, to the value of £5, will not be taken under a warrant of distress. (42 & 43 Vict., c. 49, s. 21).

#### *Imprisonment in Default of Payment.*

If a defendant makes default in payment of any sum he has been adjudged to pay in respect of a penalty, or a penalty and costs, or if sufficient goods of the defendant cannot be found to satisfy the distress, or if the Court thinks fit to do so on the grounds specified above, the Court may issue a warrant committing the defendant to prison. (11 & 12 Vict., c. 43, s. 21).

The period of imprisonment may be such as shall satisfy the justice of the case, but may not exceed in any case the maximum fixed by the following scale:—



When the amount of the sum  
or sums of money adjudged to be  
paid by a conviction, as ascertained  
by the conviction, } The said period  
shall not exceed

Does not exceed 10 shillings ... 7 days

Exceeds 10 shillings, but does  
not exceed £1 ... 14 days

Exceeds £1, but does not exceed  
£5 ... 1 month

Exceeds £5, but does not exceed  
£20 ... 2 months

Exceeds £20 ... 3 months

(42 & 43 *Vict.*, c. 49, s. 5).

If part of the sum adjudged to be paid has been recovered by distress, or paid as an instalment or otherwise, the term of imprisonment will be reduced, so as to have a proper relationship to the amount remaining unpaid. (*Id.* s. 21).

### *Mitigation of Penalties.*

The court may for a first offence reduce the penalty as they think fit. For a second offence a penalty may not be reduced below 20 shillings. (*Lic. Act*, 1874, s. 12; 42 & 43 *Vict.*, c. 49, s. 4).

### *Payment by Instalments, Security, &c.*

“ A Court of Summary Jurisdiction, by whose conviction or order any sum is adjudged to be paid, may do all, or any of the following things, namely:—

(1) Allow time for the payment of the said sum;  
and

(2) Direct payment to be made of the said sum by instalments; and

- (3) Direct that the person liable to pay the said sum, shall be at liberty to give to the satisfaction of that court . . . security with or without a surety or sureties for the payment of the said sum, or of any instalment thereof, and such security may be given and enforced in manner provided by this Act.

When a sum is directed to be paid by instalments, and default is made in the payment for one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid. (42 & 43 Vict., c. 49, s. 7).

*Power of the Court to Discharge a Defendant Without Punishment in Trifling Cases.*

If the court is of opinion that though the charge is proved, the offence was in the particular case of so trifling a nature, that it is inexpedient to inflict any punishment, or any other than a nominal punishment,

- (1) The court without proceeding to conviction, may dismiss the information, and if the Court thinks fit, may order the person charged to pay such damages, not exceeding 40 shillings, and such costs of the proceeding, or either of them as the court may think reasonable; or
- (2) The court, upon convicting the person charged, may discharge him conditionally on his giving security, with or without sureties, to appear for sentence when called upon, or to be of good behaviour, and either without payment of damages and costs, or subject to the payment of such damages and costs, or either of them, as

the court thinks reasonable." (42 & 43 Vict., c. 49, s. 16).

*No Costs in Cases of Small Fines.*

When the fine adjudged to be paid by the defendant does not exceed five shillings, no costs will be payable by the defendants, unless the Court thinks fit expressly to order otherwise. (*Id.* s. 8).

RIGHT TO A TRIAL BY JURY.

A person charged with an offence for which he may be punished on summary conviction by imprisonment, for a term exceeding three months, may object to being dealt with summarily, and elect to go before a jury. If he wishes to claim this right, he must do so before the charge is gone into; he may not wait to see how the case goes before making up his mind (*Id.* s. 17).

APPEALS TO QUARTER SESSIONS.

From summary convictions there is an appeal to Quarter Sessions. (*Lic. Act*, 1872, s. 52).

*For Procedure on Appeals, see p. 94.*

"Where a licence is forfeited on or in pursuance of a conviction for an offence, and an appeal is duly made against such conviction, the court by whom the conviction was made, may, by order, grant a temporary licence to be in force during the pending of the appeal upon such conditions as they think just." *Lic. Act*, 1872, s. 53).

NOTICE TO OWNERS OF OFFENCES BY TENANTS. RIGHT OF APPEAL.

"Where any tenant of any licensed premises is

convicted of any offence against this Act, and such offence is one the repetition of which may render the premises liable to be disqualified from receiving a licence for any period (*see next chapter*), it shall be the duty of the clerk of the licensing justices to serve, in manner provided by this Act, notice of every such conviction on the owner of the premises."

Where any order of a Court of Summary Jurisdiction, declaring any licensed premises to be disqualified from receiving a licence for any period has been made, the court shall cause such order to be served on the owner of such premises, where the owner is not the occupier, with the addition of a statement that the court will hold a Petty Sessions at the time and place therein specified, at which the owner may appear and appeal against such order on all or any of the following grounds, but on no other grounds :—

- (a) That notice, as required by this Act, has not been served on the owner, of a prior offence, which on repetition renders the premises liable to be disqualified from receiving a licence at any period ; or
- (b) That the tenant by whom the offence was committed, held under a contract made prior to the commencement of this Act, and that the owner could not legally have evicted the tenant in the interval between the commission of the offence, in respect of which the disqualifying order was made, and the receipt by him of the notice of the immediate preceding offence, which on repetition renders the premises liable to be disqualified from receiving a licence at any period ; or

- (c) That the offence in respect of which the disqualifying order was made occurred so soon after the receipt of such last mentioned notice, that the owner, notwithstanding he had legal power to evict the tenant, could not with reasonable diligence have exercised that power in the interval which occurred between the said notice, and the second offence.

If the owner appear at the time and place specified, and at such Sessions, or any adjournment thereof, satisfy the court that he is entitled to have the order cancelled on any of the grounds aforesaid, the court shall thereupon direct such order to be cancelled, and the same shall be void." (*Lic. Act, 1872, s. 56*).

(*As to proceedings on appeal, see pp. 94-98*).

## CHAPTER X.

## RESULTS OF CONVICTIONS.

*Records of Convictions; Forfeiture of Licence; Disqualification of Offenders; Disqualification of Premises.*

## RECORDS OF CONVICTIONS.

The offences mentioned below may be recorded on the licence :—

The seller of intoxicating liquor, allowing such liquor to be drunk on his premises contrary to licence. (*Lic. Act, 1872, s. 5. See p. 62*).

Evasion of the law as to drinking on the premises contrary to the licence (*id. s. 6. See p. 62*).

Permitting drunkenness or riotous conduct on the premises; (*id. s. 13. See p. 67*).

Harbouring prostitutes; (*id. s. 14. See p. 70*).

Harbouring constables; (*id. s. 16. See p. 70*).

Permitting gaming; (*id. s. 17. See p. 71*).

Keeping open a refreshment house on which an abatement of duty has been allowed after ten o'clock at night; (*id. s. 28. See p. 106*).

Keeping open premises for the sale of intoxicating liquors after closing time; (*Lic. Act, 1874, s. 9. See p. 63*).

Adulteration of drink; (*id. s. 14. See p. 66*).

Refusing to admit a constable; (*id. s. 16. See p. 76*).

The Licensing Act, 1872, provides the following

rules of procedure in the case of persons charged with the offences above:—

- “(1) The court before whom any licensed person  
“is accused shall require such person to produce  
“and deliver to the clerk of the court the licence  
“under which such person carries on business,  
“and the summons shall state that such produc-  
“tion will be required ;
- “(2) If such person is convicted, and the conviction  
“is ordered to be recorded on the licence, the  
“short particulars of such conviction, and the  
“penalty imposed, shall be endorsed on his  
“licence before it is returned to the offender ;
- “(3) The clerk to the licensing justices shall enter  
“the particulars respecting such conviction, or  
“such of them as the case may require in the  
“register of licences kept by him under this  
“Act.” (*Lic. Act, 1872, s. 55*).

The Licensing Act, 1874, further provides that the court before whom the offender is brought shall cause the register of licences in which the licence of the offender is entered or a certified copy of the entries relating to the licence in question to be produced to the court before passing sentence, and after inspecting the entries, the court shall declare as part of its sentence whether or not it will cause the conviction to be recorded on the licence. Such declaration will be deemed to be a part of the conviction. (*Lic. Act, 1874, s. 13*).

After five years from the date of a conviction the record will not be received in evidence against an offender so as to subject him to an increased penalty or forfeiture. (*Lic. Act, 1872, s. 32*).



If a licence holder is convicted of more than one offence that may be recorded on the same day the justices may order only one such conviction to be recorded. (*Lic. Act, 1872, s. 57*).

If a conviction which has been directed to be recorded on a licence has not been so recorded the court having cognisance of a case may nevertheless give the same weight to such conviction provided it can be proved, and an omission to record a conviction directed to be recorded will not exempt an offender from any penalty to which he would have been liable had the conviction been recorded. (*Lic. Act, 1872, s. 33*).

#### FORFEITURE OF LICENCE.

If a licence holder against whom two convictions are already recorded is convicted of an offence which the justices direct to be recorded, the licence of the offender will be forfeited, and he will be disqualified for five years from holding any licence. (*Lic. Act, 1872, s. 30*).

Forfeiture of the licence for a first conviction is imperative in the following cases:—

- (1) For making an internal communication between licensed and unlicensed premises. (*See p. 77*).
- (2) For forging a licence under the Wine and Beerhouse Acts. (*See p. 76*).
- (3) For allowing meetings of an unlawful society or club to be held on the premises. (*See p. 77*).
- (4) For permitting the premises to be a brothel. (*See p. 71*).
- (5) For any felony; (3 & 4 *Vict.*, c. 61, s. 7; 23 & 24 *Vict.*, c. 27, s. 22; *Lic. Act, 1870, s. 14*).

(6) For selling spirits without a licence; (3 & 4 *Vict.*, c. 61, s. 16; 23 & 24 *Vict.*, c. 27, s. 22).

For harbouring thieves the licence may be forfeited for a first and must be forfeited for a second conviction. For refusing to admit a constable into a refreshment house, for offences under *Lic. Act*, 1872, s. 3 (*see p.* 61) the licence may be forfeited on a second conviction. For certain offences in refreshment houses (*see p.* 107) the licence may be forfeited on a third conviction.

#### DISQUALIFICATION OF OFFENDERS.

For offences 2, 4, 5 and 6 (*above*) forfeiture will be accompanied by disqualification for life. On a third conviction for an offence which is directed to be recorded the offender will be disqualified for five years. On a second conviction under *Lic. Act*, 1872, sec. 3 (*see p.* 61) the offender may be disqualified for five years, and on a third conviction he may be disqualified for ever. On a second conviction for harbouring thieves the offender will be disqualified for two years.

#### DISQUALIFICATION OF PREMISES.

When a licence holder is convicted for the third time of an offence which is directed to be recorded on his licence, "the premises in respect of which his licence was granted shall, unless the court having cognisance of the case in its discretion thinks fit otherwise to order, be disqualified from receiving any licence for a term of two years from the date of such third conviction." (*Lic. Act*, 1872, s. 30).

The following rules will apply only to cases where the persons convicted have not been licensed in respect

of the same premises continuously since before the 10th August, 1872 :—

- (1) “The second and every subsequent conviction  
“recorded on the licence of any one such person  
“shall also be recorded in the register of licences  
“against the premises ;
- “(2) When four convictions (whether of the same  
“or of different licensed persons) have within  
“five years been so recorded against the premises,  
“those premises shall during one year be dis-  
“qualified for the purposes of this Act ;
- “(3) If the licences of two such persons licensed  
“in respect of the same premises are forfeited  
“within any period of two years, the premises  
“shall be disqualified for one year from the date  
“of the last forfeiture” ;

Notice of disqualification will be served on the owner of the premises ; see p. 100. (*Lic. Act, 1872, s. 31*).

## CHAPTER XI.

## APPEALS.

*Appeals in licensing matters; Appeals from convictions; Appeals by special case; Mandamus.*

Sections 27, 28, and 29, of the Licensing Act, 1828, laid down rules of procedure for appeals in licensing matters. These sections were repealed by the Licensing Act, 1872, sec. 75, except so far as they relate to the renewal or transfer of licences. Appeals against convictions must follow the procedure laid down by the Summary Jurisdiction Act, 1879 (42 & 43 *Vict.*, c. 49). There is no appeal against a refusal to grant a new licence. (*Lic. Acts*, 1872, s. 75, 1874, s. 27).

## IN RESPECT OF TRANSFERS AND RENEWALS.

An applicant who has been refused a renewal or transfer may appeal to the next Quarter Sessions of the county. If the next Quarter Sessions are to be held less than fifteen days from the day when the decision appealed against was given, then the appeal should be brought to the next Quarter Sessions following. (*Lic. Act*, 1828, s. 27, 42 & 43 *Vict.*, c. 49, s. 32).

*Notice.*

Notices of appeal must be given to the justices whose decision is appealed against within five days

after the decision has been given, and at least fourteen days before the session, to which the appeal is brought. (*Id.* & see 12 & 13 *Vict.*, c. 45, s. 1).

*Recognisances.*

Within five days from the decision appealed against the appellant must enter into a recognisance with two sufficient sureties before a justice acting in the county or place, where the decision which is appealed against was given, that he will appear at Quarter Sessions, and try the appeal, abide the judgment of the court, and pay such costs as shall be awarded. (*Lic. Act*, 1828, s. 27).

*Permission to Continue Pending Appeal.*

“ Where the justices refuse to renew a licence, and an appeal against such refusal is duly made, and such licence expires before the appeal is determined, the Commissioners of Inland Revenue may, by order, permit the person whose licence is refused to carry on his business during the pending of the appeal upon such conditions as they think just; and subject to such conditions, any person so permitted may, during the continuance of such order, carry on his business in the same manner as if the renewal of the licence had not been refused.” (*Lic. Act*, 1872, s. 53).

*The Hearing.*

The justices at Quarter Sessions will hear the evidence over again and form their own judgment on the merits of the case, and decide questions of law. If the appeal is successful they will renew or transfer the licence in the same manner as if such

licence had been renewed at the General Annual Licensing Meeting or had been transferred at Special Sessions. (*Lic. Act*, 1828, s. 27).

*Costs.*

If an appellant is successful he will only have his own costs to pay ; if he fails or abandons his appeal he may be adjudged to pay the costs of the justices against whose decision he has appealed, and in addition to the forfeiture of his recognisances he may be sent to prison if he refuses or neglects to pay the costs adjudged against him. (*Lic. Act*, 1828, ss. 27, 29).

(*As to appeals by owners see p. 101*).

(*As to appeals by case stated see p. 97*).

IN RESPECT OF CONVICTIONS.

Appeals against convictions by magistrates are governed by the Summary Jurisdiction Act, 1879, section 31, which provides as follows :—

*To what Court Appeal must be Brought.*

“ The appeal shall be made to the next practicable court of general or Quarter Sessions having jurisdiction in the county, borough, or place for which the said Court of Summary Jurisdiction (*i.e.* the court which made the conviction) acted, and holden not less than fifteen days after the day on which the decision was given upon which the conviction or order was founded.” (*Sub-sec. 1*).

*Notice.*

“ The appellant shall, within . . . seven days after the day on which the said decision of the

court was given, give notice of appeal by serving on the other party, and on the clerk of the said Court of Summary Jurisdiction notice in writing of his intention to appeal, and of the general grounds of such appeal." (*Sub-sec. 2*).

" Every notice in writing required by this section to be given by an appellant shall be in writing signed by him, or by his agent on his behalf, and may be transmitted as a registered letter by the post in the ordinary way, and shall be deemed to have been served at the time when it would be delivered in the ordinary course of the post. (*Sub-sec. 7*).

*Recognisances.*

"The appellant shall . . . within three days after the day on which he gave notice of appeal, enter into a recognisance before a Court of Summary Jurisdiction, with or without a surety, or sureties as that court may direct, conditioned to appear at the said sessions, and to try such appeal, and to abide the judgment of the court of appeal thereon, and to pay such costs as may be awarded by the court of appeal, or the appellant may, if the Court of Summary Jurisdiction before whom the appellant appears to enter into a recognisance think it expedient, instead of entering into a recognisance, give such other security, by deposit of money with the clerk of the Court of Summary Jurisdiction or otherwise, as that court deem sufficient." (*Sub-sec. 3*).

*Release from Custody Pending Appeal.*

" When the appellant is in custody, the Court of Summary Jurisdiction before whom the appellant appears to enter into a recognisance may, if the



court think fit, on the appellant entering into such recognisance or giving such other security as aforesaid, release him from custody." (*Sub-sec. 4*).

*The Hearing; Powers of the Court; Costs.*

"The court of appeal may adjourn the hearing of the appeal, and upon the hearing thereof may confirm, reverse, or modify the decision of the Court of Summary Jurisdiction or remit the matter, with the opinion of the court of appeal thereon, to a Court of Summary Jurisdiction acting for the same county, borough, or place as the court by whom the conviction or order appealed against was made, or may make such other order in the matter as the court of appeal may think just, and may by such order exercise any power which the Court of Summary Jurisdiction might have exercised, and such order shall have the same effect, and may be enforced in the same manner, as if it had been made by the Court of Summary Jurisdiction. The court may also make such order as to costs to be paid by either party as the court may think just." (*Sub-sec. 5*).

*Memorandum when Decision not Confirmed.*

"Whenever a decision is not confirmed by the court of appeal, the Clerk of the Peace shall send to the Clerk of the Court of Summary Jurisdiction, from whose decision the appeal was made for entry in his register, and also endorse on the conviction, or order appealed against, a memorandum of the decision of the court of appeal, and whenever any copy or certificate of such conviction or order is made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence of the said

decision in every case where such copy or certificate would be sufficient evidence of such conviction or order." (*Sub-sec. 6*).

*An Owner may not Appeal.*

An owner has no right to appeal against a conviction of his tenant, although such conviction may lead to the disqualification of the premises. (*Reg. v. Andover, J.J.*, 16, *Q.B.D.*, 711; 55 *L.J.*, *M.C.*, 143; 50 *J.P.*, 549 (1886).)

(*As to the rights of owners, see pp. 99 to 101*).

APPEALS BY SPECIAL CASE.

"Any person aggrieved who desires to question a conviction, order, determination, or other proceeding of a Court of Summary Jurisdiction, on the ground that it is erroneous in point of law, or is in excess of jurisdiction, may apply to the court to state a special case, setting forth the facts of the case, and the grounds on which the proceeding is questioned, and if the court decline to state a case, may apply to the High Court of Justice for an order requiring the case to be stated." (42 & 43 *Vict.*, *c. 49*, *s. 33*).

Under this section, appeals may be brought by persons who have been refused renewals or transfers, or who have been convicted of offences. An application to the justices must be made within seven days of the day when the decision was given, against which it is desired to appeal, and the case must be stated by the justices within three calendar months after the application. The application should be made in writing to all the justices who have joined in the order or decision appealed against.

Three days after the appellant has received the case from the justices, he must transmit it to the Crown Office of the High Court, having first given notice of appeal to the other party, and also a copy of the special case. The appellant must enter into a recognisance with or without sureties, and in such a sum as the justices may think fit. (20 & 21 *Vict.*, c. 43, s. 3).

The High Court will not review the finding of the justices as to matters of fact, but will declare the law applicable to the facts stated.

#### *Appeals from Quarter Sessions.*

The justices at Quarter Sessions cannot be compelled to state a case for the opinion of the High Court, but they may do so if they think fit.

#### MANDAMUS.

If the justices have refused to hear an application for a new licence, or a renewal or transfer on the merits of the case, or have refused a renewal or transfer of an old beer-house licence, on grounds other than the four prescribed grounds (*see p.* ), or have given their decision on grounds not proper to be entertained, or have wrongly declined to exercise their jurisdiction, a mandamus may be applied for to the High Court within two months of the decision complained of. If the application for a mandamus is granted, the justices will be directed to re-hear the case. A mandamus is sometimes granted when the justices have gone wrong on a point of law, other than the question of jurisdiction.

## CHAPTER XII.

## RIGHTS OF OWNERS.

*Registration of owners' names ; Owners entitled to notice of certain convictions ; Owners may obtain orders for continuance in certain cases of forfeiture ; Removal of licence not granted without consent of owner of premises.*

## REGISTRATION OF OWNERS' NAMES.

“Every person applying for a new licence, or the renewal of a licence, shall state the name of the owner of the premises in respect of which such licence is granted or renewed, and such name shall be endorsed on the licence, and the person whose name is so stated shall, subject as hereinafter mentioned, be deemed for the purposes of this Act to be the owner of the premises. A Court of Summary Jurisdiction may on the application of any person who proves to the court that he is entitled to be entered as owner of any premises in place of the person appearing on the register to be the owner, make an order substituting the name of the applicant, and such order shall be obeyed by the clerk of the licensing justices, and a corresponding correction may be directed to be made on the licence granted in respect of the premises of which such applicant claims to be the owner.” (*Lic. Act, 1872, s. 36*).

“Any person possessing an estate or interest in

premises licensed for the sale of intoxicating liquors, whether as owner, lessee, or mortgagee, prior or paramount to that of the immediate occupier, shall, on payment of a fee of one shilling to the clerk of the licensing justices, be entitled to be registered as owner or one of the owners of such premises. Provided, that when such estate or interest is vested in two or more persons jointly, one only of such persons shall be registered as representing such estate or interest. (*Lic. Act*, 1874, s. 29).

OWNERS ENTITLED TO NOTICE OF CERTAIN CONVICTIONS.

“Where any tenant of any licensed premises is convicted of an offence under this Act, and such offence is one the repetition of which may render the premises liable to be disqualified from receiving a licence for any period, it shall be the duty of the clerk of the licensing justices to serve in manner provided by this Act, notice of every such conviction on the owner of the premises.” (*Lic. Act*, 1872, s. 56). This extends to convictions under the Sale of Food and Drugs Acts. (*See p.* 66).

When an order disqualifying premises for any period has been made (*see p.* 90) notice must be served on the owner of the premises, if the owner is not also the occupier. The notice will also state at what time a Petty Sessions will be held, at which the owner may appeal on all or any of the grounds set out on page . If the owner appears before the court at the time stated, and persuades them that he is entitled to relief on the grounds above referred to, the court will direct the order of disqualification to be cancelled. (*Lic. Act*, 1872, ss. 13, 56).

OWNERS MAY OBTAIN ORDERS FOR CONTINUANCE IN  
CERTAIN CASES OF FORFEITURE.

In certain cases where a tenant has been convicted of an offence which entails forfeiture, the owner will be permitted to continue the business until next Special Sessions, at which Special Sessions he may apply for a transfer under the Licensing Act, 1828. (*See p. 30*).

REMOVAL OF LICENCE NOT GRANTED WITHOUT CONSENT  
OF OWNER OF PREMISES.

When an application is made for the removal of a licence, notice must be given to the owner of the premises from which the licence is to be removed, and a removal order will not be granted if the owner objects. (*See p. 30*).

APPEALS BY OWNERS.

An owner may join with his tenant in an appeal from a refusal to grant a renewal or transfer, and the term owner includes a mortgagee. A mortgagee holding an irrevocable power of attorney to do all Acts necessary to obtain a transfer has been held entitled to apply for a renewal against the wish of the occupier himself. (*Garrett v. Middlesex J.J.*, 12 *Q.B.D.*, 620; 53 *L.J.*, *M.C.* 81; 48 *J.P.* 358 (1884).)

An owner has no right of appeal in the case of a conviction against his tenant. (*See p. 97*).

## CHAPTER XIII.

## REFRESHMENT HOUSES.

All houses, rooms, shops, or buildings kept open for public refreshment and resort at any time between ten o'clock at night and five o'clock in the morning, and which are not licensed for the sale of beer, cider, wine, or spirits, are deemed refreshment houses and must take out excise licences. (*See p. 36, 23 & 24 Vict., c. 27, s. 6; 24 & 25 Vict., c. 91, s. 8*). No justices licence is necessary for a refreshment house where no intoxicating liquors are sold.

A refreshment house which is open for the lodging and entertainment of guests is an inn, and the keeper is liable for the safety of his guests goods, and has a lien on them for his charges like an ordinary innkeeper.

## REFRESHMENT HOUSE LICENCES.

Refreshment house licences are granted to the occupiers of such places by the Excise Authorities. A licence granted between the end of March and the first of May, is in force until the first of April in the following year; a licence granted at any other time is in force till the first of April following. (*23 & 24 Vict., c. 27, ss. 10, 11*).

The licence must be renewed every year, and expires with the death of the holder. Nevertheless, the executors, administrators, widow, or child of a



licence holder who dies before the expiration of his licence, may obtain from the Excise Authorities a permission by endorsement on the licence to continue the business until the end of the term. The person applying under these circumstances must show that he is in possession and occupation of the premises in question. (23 & 24 *Vict.*, c. 27, ss. 11, 12).

When a licence holder removes from the premises a new occupier can obtain a transfer of the licence from the Excise Authorities. (6 *Geo. IV.*, c. 81, s. 21; 25 & 26 *Vict.*, c. 22, s. 15).

An occasional licence permitting the holder to sell for not more than three days at a time on unlicensed premises may be obtained from the Excise Authorities, and a justice's consent will be also necessary. (26 & 27 *Vict.*, c. 33, s. 20; 27 & 28 *Vict.*, c. 18, s. 5).

#### HOURS OF CLOSING.

A refreshment house keeper may not keep his premises open for the sale of any article whatever, during the hours at which premises for the sale of intoxicating liquors are required to be closed. (*See p. 106*); but this does not apply to the sale of refreshments to guests lodging in the house. (*Lic. Act*, 1874, s. 11).

An occasional licence may be obtained from the Local Authority enabling a refreshment house keeper to keep his premises open to any hour specified in the licence. The Local Authority in question will be as follows:—

- (1) In the Metropolitan Police District, the Commissioner of Police for the Metropolis, subject

to the approbation of one of Her Majesty's principal Secretaries of State.

(2) In the City of London and the liberties thereof, the Commissioner of the City Police subject to the approbation of the Lord Mayor of the said city.

(3) In any district, city, or town, where Petty Sessions are held, except in the Metropolitan Police District, two Justices of the Peace sitting in Petty Sessions.

(4) In any other district, city, or town, two Justices of the Peace acting in the district, city, or town. (27 & 28 *Vict. c. 64, ss. 7, 8*; 28 & 29 *Vict., c. 77, s. 5*).

If intoxicating liquors are sold the application should be made, under the Licensing Act, 1872, sec. 29. (*See p. 32*).

### *Exemptions.*

When it appears necessary or desirable for the accommodation of any considerable number of persons attending any public market, or following any lawful trade or calling in the neighbourhood that a refreshment house should be allowed to be kept open at other than the regular hours, the justices may grant a licence exempting him from the closing regulations on such days, and during such time as they may think fit, between the hours of two and four o'clock in the morning. The holder of such a licence must fix up in a conspicuous place outside his house a printed notice stating the days and special hours during which, and the class of persons for whom, such licence has been granted. (28 & 29

*Vict. c. 77, ss. 2, 3*). An exemption order may also be obtained under the Licensing Acts, 1872 & 1874. (*See p. 13*).

#### WINE LICENCES.

The holder of a refreshment house licence may obtain an excise licence enabling him to sell foreign wine by retail, and such licence includes made wine and sweets. (*23 & 24 Vict., c. 27, s. 7*). Such licence will not be granted to any house of a less rent and value than £10 a year, and if situated in any city, borough, town, or place containing over 10,000 inhabitants, £20 a year. (*Id. s. 8*).

#### *A Justice's Licence Necessary.*

An excise licence to sell wine by retail will not be granted without first procuring a licence from the justices, in respect of which application must be made and notices served, etc., as for an alehouse or beerhouse licence, for which see on page . (*Lic. Act, 1869, s 4*).

A refreshment house keeper cannot obtain a licence to sell spirits without obtaining a justice's alehouse licence.

Officers of Excise may enter premises licensed for the sale of wine by retail at any time, and if any spirits are found in any place used for storing, keeping, or retailing wine, the licence holder may be fined £50. The spirits will be forfeited and the licence become void. (*23 & 24 Vict., c. 27, ss. 24, 25*).

#### OFFENCES AND PENALTIES.

##### *Keeping a Refreshment House Without a Licence.*

Any person keeping a refreshment house for which

a licence is required (*see p. 102*) without having a proper licence is liable to a fine of £20. (23 & 24 Vict., c. 27, s. 9).

Keeping open after closing time, penalty £5. (*See p. 103, 27 & 28 Vict., c. 64, s. 5*).

*Allowing Intoxicating Liquors to be Drunk after Closing Hours in Certain Refreshment Houses.*

“If any keeper of a refreshment house **not licensed for the sale of intoxicating liquors** allows any intoxicating liquor to be consumed on the premises during the hours during which the same premises would, if licensed for the sale of intoxicating liquors, be closed by law for the sale of such liquors, he will be liable to a fine of £10 for the first and £20 for any subsequent offence. (*Lic. Act, 1872, s. 27*).

This section forbids a refreshment house keeper to allow persons, including his lodgers, to drink intoxicating liquors which they may have purchased elsewhere, in the refreshment house after the public houses have been closed.

A refreshment house **with a wine licence** in respect of which an abatement in the excise duty has been allowed under section 9 of the Act 24 & 25 Vict., c. 91 (*see p. 37*) must be closed every night at ten o'clock, and if the occupier keeps his house open, or sells or exposes for sale, or allows to be drunk on the premises, any intoxicating liquor after that hour is liable to a fine of £10 for the first and £20 for any subsequent offence, and the conviction may be recorded on his licence. (*Lic. Act, 1872, s. 28*). He will be also liable under 23 & 24 Vict., c. 27, s. 9, (*see above*) and under sec. 19 of the same Act (*see*

*below*) and for the penalties mentioned on pages 11 and 63, but he will not be punished twice for the same offence. (*Lic. Act*, 1872, s. 59).

Selling wine by retail without a licence, penalty £20. (23 & 24 *Vict.*, c. 27, s. 19).

Selling intoxicating liquors generally without a licence. (*See pp.* 61-63).

### *Other Offences.*

“Every person licensed to keep a refreshment house under this Act who shall . . . knowingly suffer any unlawful games or gaming therein, (*see p.* 71), or knowingly suffer prostitutes, thieves, or drunken and disorderly persons to assemble at or continue in or upon his premises, or do suffer, or permit any act in contravention in his licence, shall, upon conviction thereof before two justices, pay for the first offence a fine not exceeding forty shillings, for the second offence a fine not exceeding £5, and for every subsequent offence a fine not exceeding £20, or be subject to a forfeiture of his licence, at the discretion of the justices before whom he shall be convicted; and in case of such forfeiture of his licence, such person shall be disqualified for the space of one year then next ensuing from obtaining a fresh licence; and such fresh licence, if obtained within the said year, shall be absolutely null and void to all extents and purposes.” (23 & 24 *Vict.*, c. 27, s. 32).

The keepers of refreshment houses with wine licences are subject to the penalties imposed by the Licensing Acts, 1872 & 1874. (*See c. VIII*). Such

persons on whose premises spirits are found are liable to a fine of £50, in addition to which both the spirits and the licence will be forfeited. (*See p. 105*).

## APPENDIX.

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### FORMS OF NOTICES.

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#### NOTICE OF APPLICATION FOR A NEW LICENCE. (*See p. 18*).

To A. B., one of the Overseers of the parish of  
and to C. D., the Superintendent of Police of the  
district.

I, [*insert name in full*] of [*address in full*] hereby give  
you notice that I intend to apply at the next general  
annual licensing meeting for the                      division of the  
county of                      [*or*] for the borough of                      to be  
held at                      on the                      day of                      , 18                      , for  
a licence to sell all intoxicating liquors [*or specify par-  
ticular liquors*] to be consumed on the premises situated  
at [*insert full address of premises*] and known as [*insert  
name or sign of premises*].

Dated this                      day of                      , 18                      .

Signed,                      E. F.

#### NOTICE OF APPLICATION TO TRANSFER A LICENCE. (*See p. 26*).

To A. B., one of the Overseers of the parish of  
and to C. D., the Superintendent of Police of the  
district.

I, [*insert name in full*] of [*address in full*] hereby give  
you notice that I intend to apply at the next special



sessions for the                      division of the county of  
 [or] for the borough of                      , to be held at  
 on the                      day of                      , 18                      , for permission to  
 transfer the licence now held by me for the sale of all  
 intoxicating liquors [*or describe particular liquors*] to be  
 consumed on the premises situated at                      [*insert full  
 address of premises*] and known as [*insert name or sign  
 of premises*] to E. F., of [*insert full address*] who has  
 during the last six months resided at                      and has  
 during the same six months carried on the business of  
 [or] has been employed as a [*insert business or employ-  
 ment of transferee*].

Dated this                      day of                      , 18                      .

Signed,                      G. H.

[*When the application is to be made by the executor or  
 administrator or by the trustee of the licensed person  
 this form must be varied accordingly*].

[*When the application is to be made by a new tenant (see  
 p. 27) use the following form*].

To A. B., etc. (*as above*).

I, [*insert name in full*] of [*address in full*] who have  
 for the last six months resided at                      and have  
 during the same six months carried on the business of  
 [or] have been employed as a [*insert business or employ-  
 ment*] hereby give you notice that I intend to apply at  
 the next special sessions for the                      division of the  
 county of                      [or] for the borough of                      to be  
 held at                      on the                      day of                      , 18                      , for a  
 transfer to me of the licence held [or] formerly held by  
 E. F. for the sale of all intoxicating liquors [*or describe  
 particular liquors*] to be consumed on the premises  
 situated at [*full address of premises*] and known as  
 [*name or sign of premises*].

Dated this                      day of                      , 18                      .

Signed,                      G. H.

NOTICE OF APPLICATION FOR THE REMOVAL  
OF A LICENCE. (*See p. 30*).

To A. B., etc. (*as above*).

I, [*insert name in full*] of [*address in full*] hereby give you notice that I intend to apply at the general annual licensing meeting for the                      division of the county of                      [*or*] for the borough of                      to be held at                      on the                      day of                      , 18                      , for the removal of a licence now held by E. F. [*or*] by me, for the sale of all intoxicating liquors [*or describe particular liquors*] to be consumed on the premises situated at [*full address of old premises*] and known as [*name or sign of old premises*] from the above-mentioned premises to the premises situated at [*full address of premises to which licence is to be removed*] and known as [*name or sign of premises*]; of which licence, when removed, I desire to be the holder.

Dated this                      day of                      , 18                      .

Signed,                      G. H.

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